

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF TEXAS

CASE NO. 3:17-cv-02245-X

CHARLENE CARTER,

Plaintiff,

v.

SOUTHWEST AIRLINES CO. and,
TRANSPORT WORKERS OF AMERICA,
LOCAL 556,

Defendants.

TRANSCRIPT OF THE PRETRIAL CONFERENCE
BEFORE THE HONORABLE BRANTLEY STARR
UNITED STATES DISTRICT JUDGE

Dallas, Texas

June 16, 2022

9:02 a.m.

1 A P P E A R A N C E S:

2

FOR THE PLAINTIFFS:

3

NATIONAL RIGHT TO WORK FOUNDATION INC.

4

8001 Braddock Street

Suite 600

5

Springfield, Virginia 22160

BY: MATTHEW B. GILLIAM, ESQ.

6

mgb@nrtw.org

(703) 321-8510

7

8

PRYOR & BRUCE

302 North San Jacinto

9

Rockwall, Texas 75087

BY: BOBBY G. PRYOR, ESQ.

10

MATTHEW D. HILL, ESQ.

bpryor@pryorandbruce.com

11

mhill@pryorandbruce.com

12

13

14

15 FOR THE DEFENDANT SOUTHWEST AIRLINES CO.:

16

REED SMITH, LLP

2850 North Harwood

17

Suite 1500

Dallas, Texas 75201

18

BY: PAULO B. McKEEBY, ESQ.

BRIAN K. MORRIS, ESQ.

19

pmckeeby@reedsmith.com

bmorris@reedsmith.com

20

21

22

23

24

25

1 For the Defendant Union 556:

2 Adam S Greenfield

3

4 CLOUTMAN & GREENFIELD, PLLC

3301 Elm Street

5 Dallas, TX 75226

6 BY: ADAM S. GREENFIELD, ESQ.

EDWARD B. CLOUTMAN, III, ESQ.

7 agreenfield@candglegal.com

crawfish11@prodigy.net

8

9

10

11

12

13

14

15

16

17

18

19

20

21

22

23

24

25

1 COURT REPORTER: MS. KELLI ANN WILLIS, RPR, CRR, CSR
2 United States Court Reporter
3 1100 Commerce Street
4 Room 1528
5 Dallas, Texas 75242
6 livenotecrr@gmail.com
7

8 Proceedings reported by mechanical
9 stenography and transcript produced by computer.
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

* * * *

1 - P R O C E E D I N G S -

2 THE COURT SECURITY OFFICER: All rise.

3 THE COURT: Thank you. You can be seated.

4 Okay. The Court calls Civil Action
5 317-cv-2278-X. That is Carter versus Southwest
6 Airlines and Transport Workers of America, Local 556
7 for pretrial conference.

8 Let's do appearances for the record.

9 MR. GILLIAM: Matthew Gilliam for
10 Plaintiff, along with Matthew Hill and Bobby Pryor.

11 THE COURT: Okay. Thank you.

12 And then how about for Southwest, who do
13 we have here?

14 MR. McKEEBY: Paulo McKeeby along with
15 Brian Morris for the Defendant Southwest.

16 THE COURT: Okay. Thank you.

17 And then how about for Local 556?

18 MR. GREENFIELD: Adam Greenfield, along
19 with Edward Cloutman, III.

20 THE COURT: All right. Thank you.

21 Okay. So is everyone ready for pretrial
22 conference?

23 I know this monitor is always right in the
24 way. I wish I was as tall as Matumbo, because then
25 I could see you perfectly. But I'm short and I

1 apologize.

2 That -- that whole system is probably
3 going to be tilted a little bit when we have the
4 jury trial, by the way, just because real action
5 with the jury. And so we try to tilt it so if you
6 are at the podium, you can face the jury.

7 The problem we see today with that and
8 y'all making eye contact with me is not going to be
9 a problem during trial.

10 Is everyone ready for pretrial conference?

11 All right. So let me tell y'all what
12 things I plan on us covering, and then you can tell
13 me if I have left anything out.

14 So I have got 10 things I think we need to
15 talk about.

16 One is scheduling. Just me confirming
17 that y'all have a special setting.

18 Two is pretrial order.

19 Three is jury charge. I don't plan
20 talking through the jury charge, but just telling
21 you how I plan to do it. I will try to send y'all
22 my draft, before trial starts, and then I will tell
23 you how I handle informal charge conferences and
24 formal charge conferences.

25 Four is motions in limine.

1 Five is voir dire.

2 Six is time limits. No one likes them but
3 I want to walk through it, so I make clear to y'all
4 what the shot clock is, how it works, and what
5 questions y'all have.

6 Seven is exhibit objections.

7 I won't handle all of those today. I will
8 just -- you know, you can calm your blood pressure,
9 you don't have to talk through one at a time. But I
10 will tell you my protocol on how I handle them.

11 I handle them pretrial, so it doesn't
12 waste y'all's time clock. But I handle them the
13 morning of trial before the jury gets here at 8:30.

14 And then I have got witness list
15 objections as the eighth topic to cover.

16 Depo designations and unavailable
17 witnesses is Topic 9.

18 And then any other questions on trial
19 protocol as Topic No. 10.

20 Any topics that we are missing out on,
21 that y'all want to make me aware of?

22 MR. GILLIAM: Not that I can think of,
23 your Honor.

24 There was one item that we discussed a
25 little bit amongst ourselves, and that's having some

1 conversations about --

2 THE COURT: Can I ask -- and this is --
3 everyone is used to standing up to address judges,
4 but our microphones get real quiet when you do that.

5 Do you mind -- can we all have an
6 agreement that y'all can sit down when addressing
7 me? I'm not offended in the least, and then I can
8 hear all of you, if that makes sense.

9 MR. GILLIAM: Okay.

10 THE COURT: Okay. So y'all can stay
11 seated, and I will slide over here, awkwardly, so I
12 can make eye contact.

13 MR. GILLIAM: Thank you, your Honor.

14 So yes. So we had discussed amongst
15 ourselves possibly cleaning up some of the
16 duplicative pages in the exhibits.

17 THE COURT: Okay.

18 MR. GILLIAM: So that might fit in well
19 with your Topic No. 7.

20 THE COURT: Yes.

21 MR. GILLIAM: The only other item I can
22 think of.

23 THE COURT: And I will say, just at the
24 outset, I think y'all have been working together
25 very well on exhibits and some of the other issues

1 where sometimes lawyers don't work well together.

2 If y'all have a situation where you want
3 to streamline things and make late-breaking changes
4 to exhibits and the list, I'm fine with that because
5 of the professional courtesy you have shown to each
6 other.

7 Does that make sense?

8 So I'm not going to be a jerk and say,
9 Hey, exhibit lists is closed and exhibits are closed
10 when y'all have such good coordination.

11 MR. GILLIAM: Thank you.

12 THE COURT: So thank you in advance for
13 your professionalism. It is refreshing.

14 A lot of lawyers get in here and try to
15 beat the other lawyers over the head, and the jury
16 doesn't appreciate it, honestly.

17 Like I talk to the juries after every
18 case. Anytime we have had professional lawyers
19 working well together to present a case to the jury,
20 they love it, right? They want to see the case for
21 what it is, not for what lawyers can be to each
22 other at their worst.

23 Thank you for that at the outset.

24 MR. McKEEBY: So as a practical matter, if
25 we do, as I suspect to be the case, i have an

1 amended exhibit list.

2 Should we just kind of file that based on
3 the previous protocol or --

4 THE COURT: I will let you file it on the
5 docket without a motion for leave. All right? Just
6 file it.

7 What I will ask is if when you file one,
8 can y'all send a Word version to us as well? The
9 reason I'm asking for a Word version -- I will cover
10 this a little more when we get to exhibits -- I'm
11 sort of the keeper of exhibits once trial starts,
12 and so I take your Word version, add a few columns,
13 and I say witness admitted with and dated admitted,
14 and then as we admit things one at a time, I put
15 those entries on the Word version of the exhibit
16 list.

17 At the end of trial, I strip off all of
18 the exhibits that weren't admitted, and that is what
19 we send back with the jury. They will have a paper
20 printout of that. And then they will have the
21 electronic version of each exhibit.

22 So as I admit it, I also grab your
23 electronic exhibit and throw it on the thumb
24 drive -- that thumb drive goes on the computer.

25 So if I don't have your Word copy, then it

1 kind of makes it more cumbersome on me.

2 So file it -- you don't need to file a
3 motion to leave, but if you could send a Word doc as
4 well, that would help.

5 I think y'all have Mr. Frye's email.
6 Y'all have the Starr orders email.

7 I will give you Mr. Frye's email. That is
8 where you can send it as well.

9 So it is Kevin_Frye -- normal spelling of
10 Kevin; Frye is F-R-Y-E -- and then it is at
11 txnd.uscourts.gov.

12 He gets plenty of email. I sign him up
13 for spam all of the time, enlisted him for the
14 Marines, Army, Navy, Air Force. We need Space
15 Force. I need to enlist him in the Space Force.

16 Okay. So email it to Mr. Frye. And then
17 I will have that copy to use on the bench.

18 Okay. Well, let's start talking. At the
19 end, I will just ask you if there is anything we
20 didn't cover, and then we can make sure all of your
21 questions are answered.

22 On scheduling, I know 1 p.m. is a weird
23 start time for July 5th. So I will tell you why a 1
24 p.m. start.

25 I have got another pretrial conference

1 that morning for a trial that is going to be right
2 on your heels. And so I needed to knock that out in
3 the morning so we could pick the jury in the
4 afternoon.

5 The good news about that is, you have a
6 special setting. There is no other criminal case or
7 civil case I have that will knock you off the
8 July 5th. There is also no other case in the
9 courthouse that could knock you off of July 5th.

10 We do criminal cases first, oldest
11 indictments first. And so right now there is
12 nothing that can knock you off of July 5th. So for
13 witness planning purposes, that is your date. We
14 are going to go then.

15 That is the one benefit to me that COVID
16 has shown us, is I like special settings. And that
17 gives everyone greater peace and comfort, and it
18 let's me prep for the case better than just a cattle
19 call that we have got a three-week docket and who
20 knows who we will call.

21 So July 5th is our special setting.

22 Pretrial order.

23 So I have been through your pretrial
24 order. There is only one question I have about it,
25 and it really gets to punitive damages for an RLA

1 claim.

2 The reason I'm asking that is because I
3 know from the live complaint, the Fourth Amended
4 Complaint, there was a demand for punitive damages
5 from Title VII. And I think we are all on the same
6 page that punitive damages are recoverable if a
7 Title VII case meets the legal test.

8 I know there is a disputed question as to
9 legally whether or not you can get punitive damages
10 on an RLA case, but I did not see a request in the
11 Fourth Amended Complaint for punitive damages for an
12 RLA claim.

13 So my question is -- I know in the
14 pretrial order we've got a reference to that being a
15 contested issue of Law No. 8 from Carter.

16 I know in Carter's submission of a
17 proposed jury questions, we've got that in there,
18 punitive damages tying back to RLA.

19 So I guess my first question is, are you
20 trying to get it? And then I will ask, do y'all
21 consent to it? Because you can try things by
22 consent. And if we don't do that, then I need to
23 figure out some other questions.

24 So the first question for Team Carter is,
25 are you seeking punitives under the RLA claims?

1 MR. GILLIAM: Yes, your Honor, we are.

2 We are seeking punitive damages under the
3 precedent that was set in the Seventh Circuit case
4 of Lebeau.

5 There is another case that supports the
6 punitive damages theory out of the -- out of the one
7 of the New York districts. That is Riley. We cited
8 to both of those.

9 Lebeau also cites to many cases in other
10 circuits where punitive damages have been awarded
11 for an RLA claim.

12 And then, finally, I would say there is a
13 Fifth Circuit case that we cited to you in our
14 briefs that has awarded, they call it penalty A,
15 akin to punitive damages.

16 And, again, we have cited to that case in
17 our brief as well.

18 THE COURT: And so I will -- thank you for
19 your answer. Let me say one thing right quick.

20 Today, no matter how far get on my
21 questions on punitives and RLA, I will never get to
22 the merits of that.

23 I think that is something that we have to
24 talk about at the informal charge conference, and
25 then I will make the final decision at the formal

1 charge conference.

2 The reason I'm asking it today is for the
3 limited purpose of the pretrial order. If I sign
4 it, it replaces the pleadings.

5 And my concern is, I'm replacing a Fourth
6 Amended Complaint that does not seek punitives for
7 RLA with a pretrial order that arguably does, based
8 on contested issue of Law No. 8 from Carter.

9 So before I do that, I'm trying to figure
10 out just the procedural question, not the merits
11 question of are they recoverable.

12 Okay. So they want them. So now my
13 question for Southwest and 556 is, do you agree to
14 try them by consent?

15 If not, I have other procedural questions
16 I need to ask.

17 MR. McKEEBY: No.

18 THE COURT: Okay. I figured that was your
19 answer. So -- now, let me come back.

20 So basically my view is that, the pretrial
21 order replaces pleadings. So you are trying to
22 amend your pleadings on the eve of trial.

23 So now we have to figure out good cause,
24 is there good cause. If there is, is there
25 prejudice to the other side.

1 And so my question is, what is the good
2 cause for not including this in the Fourth Amended
3 Complaint but now including it in the pretrial
4 order?

5 MR. GILLIAM: Your Honor, I know that
6 we -- the punitive damages provision in the Fourth
7 Amended Complaint did specifically mention Title
8 VII.

9 There was also another provision that said
10 we seek other relief that is warranted under the
11 case.

12 And again, we think that this is a case
13 where protected activity under the Railway Labor Act
14 should be in fact protected.

15 And when you have an employer and a union
16 that turn on an employee, then there needs to be
17 punitive damages awarded in order to deter future
18 conduct of that nature.

19 THE COURT: Understood.

20 Is the Seventh Circuit case you cited, did
21 that come up before or after the Fourth Amended
22 Complaint?

23 MR. GILLIAM: That came out before.

24 THE COURT: Do you recall?

25 Okay. So let me hear argument on good

1 cause from Southwest or 556. I don't care who goes
2 first.

3 MR. McKEEBY: I will go first.

4 I don't have too much interest in it today
5 rather than it wasn't in the complaint.

6 Frankly, I don't think it is something
7 that, punitive damages, they are entitled to.

8 The Lebeau case and the other cases that
9 do recognize a claim for punitive damages are in the
10 context where there is no Collective Bargaining
11 Agreement or union in place.

12 And there is another line of cases, when
13 those things do exist, there is a union in place,
14 where the Courts have fairly unanimously said the
15 punitive damages and compensatory damages, by the
16 way, are not available.

17 So I actually thought that is maybe
18 something that warrants a pretrial -- a pretrial
19 brief.

20 I know we said we didn't need one in our
21 pretrial order. But thinking through that issue, I
22 might suggest that we revisit that.

23 But to the extent that the Court finds
24 good cause with respect to punitives, but I think it
25 is also applicable to compensatory under the RLA, at

1 least we are in agreement, as the Court observed
2 with respect to Title VII, but not so with respect
3 to the RLA.

4 And, again, I construed that the omission
5 as acknowledgement that they weren't legally
6 entitled to it and so we would oppose their request
7 to effectively amend the pleading.

8 THE COURT: Understood.

9 So here is what I will do. I'm not going
10 to reach the merits yet. I haven't delved into the
11 merits.

12 But what I will say is, I get that you are
13 not trying it by consent.

14 When it comes to the two elements what I
15 would look at for procedurally, can they add that
16 request at this point in time.

17 I'm going to say, I don't think there
18 would be prejudice to the defendants but I don't
19 think there is good cause.

20 I'm just saying this to be fully
21 transparent with y'all. I don't try to rig outcomes
22 and steer outcomes. So I'm just trying to put all
23 my cards on the table.

24 I don't think there is prejudice because
25 you are already seeking punitives in Title VII,

1 right? And so all of that evidence is coming in
2 Title VII.

3 They have been on notice of punitives for
4 a long time.

5 Is it Title VII and RLA? I don't know
6 that it matters that much from a prejudice stand
7 point.

8 Where I do think it matters is good cause.
9 I think if the Seventh Circuit case had come out as
10 a case after the Fourth Amended Complaint, then we'd
11 have a situation where it is changed circumstances.

12 And I would absolutely say, well, you
13 weren't really on notice at the time. The text of
14 the RLA was not matching up to the Title VII text.
15 So we weren't really on notice from the text. Now
16 the court says -- has implied it in.

17 But I don't think we are there in that
18 situation. So I will just say, I think there is no
19 good cause to amend the pleadings at this stage.

20 What I plan on doing then is, I'm just
21 going to hand mark through No. 8, before I sign the
22 order.

23 If I sign the order without hand marking
24 through No. 8, then I have broaden the scope of the
25 pretrial order beyond the scope of the Fourth

1 Amended Complaint in a way where you aren't
2 consenting to it and there is no good cause for it.

3 But I will understand y'all disagree with
4 me on that, and I get that. I'm just telling you, I
5 think there is no prejudice, but there is also no
6 good cause.

7 MR. GREENFIELD: Your Honor, if I may.
8 Just on food for thought.

9 THE COURT: Yes. Sorry. I couldn't see
10 you.

11 MR. GREENFIELD: That is all right. I
12 have been pretty quiet as to this point.

13 As food for thought on the prejudice
14 matter, Title VII does have damage caps. So I think
15 that could potentially factor into that.

16 THE COURT: Okay. All right. Well, thank
17 you for clarifying that.

18 What I will say is, I don't think there is
19 procedural prejudice --

20 MR. GREENFIELD: Sure.

21 THE COURT: -- from a discovery
22 standpoint. But I will save back because you
23 brought up the damage cap in Title VII punitives,
24 but there maybe substantive prejudice by a higher
25 punitive damage award under RLA than under Title

1 VII.

2 Okay. So with that on the pretrial order,
3 later on today, I will cross through Carter
4 contested issue No. 8 and then I will sign it. That
5 will effectively merge the pleadings into your
6 pretrial order.

7 Okay. So I will say on stipulated facts,
8 thank y'all for putting in the stipulated facts that
9 you did. That helps tell the story of the case.

10 What I do on stipulated facts is, when we
11 start off, after we have selected the jury, sworn
12 them in and after y'all have done your opening
13 arguments, I then read the stipulated facts and say
14 the lawyers have worked hard to get together and say
15 what they agree in this case. They hear that, and
16 then we have Carter call the first witness.

17 Those stipulated facts also show back up
18 in the jury charge, because y'all have agreed to
19 them. I just put them in the jury charge as a list
20 there. So that's the two places they will see
21 stipulated facts. They will hear it from me after
22 opening and they will see it in the jury charge.

23 Any questions on pretrial order?

24 Okay. So jury charge is the next thing we
25 should talk about.

1 And I told y'all, I'm not going to give
2 y'all rulings today on a charge. But I want to show
3 y'all a roadmap of how we handle them.

4 I have got your proposed versions, and
5 thank you for flagging the points of disagreement
6 that y'all have.

7 I'm going to work on coming up between now
8 and the first day of trial, my first draft of the
9 jury charge. And then we will email that out to
10 y'all, so you have the benefit of it before we start
11 picking our jury.

12 You can look through it, see what topics
13 you want to argue me off of. And then we will have
14 an informal charge conference at some point during
15 trial. That is off the record. Right? The jury
16 will obviously be out of the room.

17 But then we will have it off the record,
18 then -- that is your chance to lobby me, is the
19 informal charge conference. We may get here early
20 one day or stay late one day.

21 Or maybe we had a witness issue where the
22 jury is out at 4:30 and it is a great time to talk
23 about the charge.

24 So I try to give my draft early, so y'all
25 can think about it and talk to me at any point

1 during trial, when we would have an informal charge
2 conference.

3 A formal charge conference, obviously, it
4 will be on the record, still outside the presence of
5 the jury but after all of the evidence is closed.
6 And so we can handle any motions for directed
7 verdict at that point because the jury is out of the
8 room, and also have our last chance to talk about
9 the jury charge.

10 What I will say is, like we usually
11 don't -- because the timing is more fixed for the
12 formal charge conference. Right? We've got to wait
13 until all of the evidence is in.

14 We usually don't luck out and it is just
15 at a break where the jury is gone for the night or
16 they are out at lunch. So the jury is usually back
17 in their tiny, cramped deliberation room, unhappy
18 with us for staying out here.

19 And so that is why I try to have an
20 informal charge conference where you can persuade
21 me.

22 The formal charge conference is more about
23 preserving than persuading, if that makes sense.

24 The jury is sitting back there. They are
25 cramped. I will tell my view of juries and why I

1 perhaps zealously guard their time.

2 This is true of sidebars. This is true of
3 anything we do that has the jury in the deliberation
4 room.

5 Back when it was early England, the king
6 or queen would decide the cases, right?

7 And eventually we replaced that and got
8 courts in England.

9 And here in America, we said in the first
10 three words of the Constitution, it is "We the
11 People."

12 And clarified in the Fifth Amendment for
13 criminal trial, the jury is the People.

14 And the Seventh Amendment, civil trials,
15 like we are having here, the jury is "We the
16 People."

17 So when we lock up the sovereign in that
18 dingy little room, we do it for three hours for a
19 formal change conference, I feel like I'm not doing
20 my job as a judge if I let that happen.

21 So I want you to have your full measure of
22 time to persuade me, but that should happen in an
23 informal charge conference where the jury is out,
24 right? Where they haven't come in to the courthouse
25 and they are just waiting on us.

1 So I try to protect their time.

2 But you will see that when we talk about
3 exhibits and my protocol for trying to minimize the
4 amount of time that we are huddled at a sidebar and
5 they are wondering what on earth we are doing and
6 why we are wasting their time.

7 Okay. So that is the jury charge and
8 informal charge conference.

9 I'm not sure when it will happen but that
10 is the time to persuade.

11 Formal charge conference, we do know when
12 it will happen, and that is the time to preserve.

13 Any questions on jury charge and that
14 protocol?

15 MR. GILLIAM: No. I will save this for a
16 later item.

17 THE COURT: Okay. That is fine.

18 We have plenty of time to address any
19 items of whatever order y'all prefer.

20 If y'all have questions that pop up, feel
21 free to ask them whenever.

22 Okay. Motion in limines.

23 I sent out a ruling on most of them
24 yesterday, but there are a number that I saved back
25 because I wanted to hear what y'all's thoughts were

1 on them before I issue a ruling.

2 What I will try to do is, even if I give
3 you a ruling on some of those today, I will still
4 try to push out a document in writing.

5 And if I can do it, I will push out an
6 amended ruling on motions in limine.

7 Because during the thick of trial, none of
8 us remember exactly what every limine ruling was.
9 And if we have them all on one document at your
10 fingertips, you can control F, search for it and
11 remember what the ruling was.

12 So I will try to do that for y'all's
13 benefit and mine.

14 But on the ones I saved back for talking
15 about today, I think I have got Carter motion in
16 limine number 12, as the first one that I withheld a
17 ruling on.

18 And so I will just recap what that one was
19 and then hear from y'all.

20 So Carter 12 was Carter seeking to
21 prohibit evidence, statement, argument, or testimony
22 regarding Local 556's representation of Carter after
23 President Stone reported her to Southwest for
24 discipline.

25 So it looks like both the Union and

1 Southwest oppose it. But everyone, including Carter
2 agrees, "That Local 556 did not discriminate nor
3 improperly represent her in any way at either the
4 fact finding meeting or the step two grievance."

5 So this one -- I mean, I think there is
6 some room for agreement of the parties, but not
7 total agreement.

8 I'm trying to figure out where that line
9 is, and if we should have like an extra stipulation
10 that is at the end of our stipulations that we all
11 agree that this conduct was not a Union violation or
12 not.

13 I'm just trying to figure out where we are
14 in terms of our agreement or disagreement.

15 Should I hear from Carter first and then
16 hear what -- hear what Local 556 and Southwest say?

17 MR. GILLIAM: Sure, your Honor.

18 I think that, as the Court recognized in
19 its ruling yesterday, that really everybody agrees
20 that representation after President Stone reported
21 is not something that is contested by our duty of
22 fair representation or RLA or Title VII claims
23 against the Union.

24 We -- our claim is that it is President
25 Stone, as the representative official of Local 556

1 turning in Ms. Carter, that is the crux of the
2 violation, and nothing that the Union did after the
3 fact can really change that.

4 THE COURT: That makes sense.

5 So are Southwest and the Union arguing
6 there are things after the fact that might have been
7 Union violations of fair representations? Or it
8 seemed like people were in backwards positions a
9 little bit.

10 But is there any part of what he just said
11 that is a point of disagreement from Southwest or
12 the Union?

13 MR. McKEEBY: I will speak briefly,
14 because I think this is more of a Union issue.

15 But no, with respect to Southwest, other
16 than I think from Southwest's perspective, the
17 fairness of the overall process, the grievance
18 process, the hearings that -- and the fact finding
19 that occurred during that process at which the Union
20 was in attendance with Ms. Carter show the fairness
21 of the process, and that is something I would like
22 to be able to explain to the jury. I think that is
23 relevant.

24 And so my questions would simply be
25 limited to the fact of Union representation at those

1 proceedings to show the fairness of those
2 proceedings as opposed to getting into any other
3 detail, quite frankly.

4 THE COURT: Okay. I think I understand
5 the position.

6 Can I hear from the Union, Mr. Greenfield?

7 MR. GREENFIELD: Yes, your Honor.

8 The evidence of the Union's efforts to
9 help Ms. Carter get her job back is directly related
10 to evidence that we fairly represented Ms. Carter
11 throughout that process and the lengths to which we
12 did.

13 From an initial standpoint, we would
14 contend that President Stone, as an employee of
15 Southwest, never relinquishes any of her rights to
16 be free from harassment and discrimination in the
17 workplace.

18 From that point, what the Union did is
19 almost -- there is internal and external checks and
20 balances. So even if a Union executive board
21 member, or the president, in this example, were to
22 turn in Ms. Carter for her alleged harassing
23 behavior, the Union then comes on the back end to
24 represent Ms. Carter and ultimately got her job
25 offered back to her.

1 So we think the actions that happened
2 afterward will go directly to the duty of fair
3 representation claim.

4 THE COURT: Understood.

5 Well, so my plan on this is to, in
6 writing, say that I will deny this.

7 I get your point now, that it is telling
8 the rest of the story, right? And now it is -- it
9 is also a point that they will argue to the jury.

10 It doesn't matter what good you could have
11 done after the fact, if you did something bad, that
12 could have been a violation of fair representation.

13 But I don't think I will handcuff you from
14 telling that story that what you did was good after
15 Stone turned in Carter.

16 But, obviously, you can also say that no
17 amount of good after Stone turned in Carter could
18 undo the fact that Stone turned in Carter.

19 So I will deny that, but I think y'all
20 know that that is fair game for the jury to talk
21 about with regard to both of your sides of the
22 issue.

23 The next one I saved back was Carter
24 Limine 20.

25 So Carter seeks to prohibit any evidence,

1 statement, argument, or testimony regarding any
2 person's specific support for Hillary Clinton or
3 Donald Trump.

4 So the notes I have are, Carter saying it
5 is irrelevant and prejudicial; Southwest isn't
6 opposed, but Local 556 is partially opposed because
7 the objection might encompass information that there
8 was in plaintiff's communications to Audrey Stone.

9 So I guess my question would be, I get
10 that is sort of the area of dispute, right?

11 If it was in an exhibit, are we carving
12 that out in a motion in limine ruling?

13 I guess my first question is for the
14 Union. Mr. Greenfield, do we know -- are there
15 specific exhibits we are talking about? Because
16 this also goes to voir dire. I know there are some
17 proposed voir dire questions on Clinton/Trump.

18 So I'm trying to figure out what is the
19 universe. My general feeling is, like y'all's is,
20 to say that is a global matter, probably no. But if
21 it is in communications and those communications
22 were what led to the lawsuit here, then I'm not
23 inclined to go and redact those communications.

24 So can you tell me and maybe illuminate
25 more for me the communications issues?

1 MR. GREENFIELD: Yes, your Honor. There
2 were voluminous communications from Ms. Carter to
3 President Stone during a three-, four-, five-year
4 time period. That included communications regarding
5 President Trump, et cetera.

6 But yes, globally we would agree with the
7 Court and plaintiffs that those topics shouldn't be
8 discussed or shouldn't be addressed.

9 But because they are in the communications
10 themselves, we shouldn't be parsing those out from
11 the jury.

12 THE COURT: Do you know if any of those
13 communications are in trial exhibits, Mr.
14 Greenfield?

15 MR. GREENFIELD: Yes. Yes, they are.

16 THE COURT: Let me hear from -- well,
17 anything to add from Southwest?

18 MR. McKEEBY: No.

19 THE COURT: Okay. So Carter, what is the
20 response on that?

21 Trial exhibits is my key concern.

22 MR. GILLIAM: Yes. If we knew
23 specifically which trial exhibits they were
24 objecting to, maybe there is a way to redact the
25 references we all agree on, the Trump and Clinton

1 references.

2 But maybe there is other speech, Union
3 opposition speech that we would agree to leave
4 unredacted.

5 I don't know if that would resolve the
6 issue for --

7 THE COURT: Here is my plan on this one,
8 and without -- I think what I can say is, I'm not
9 intending to redact communications that led up to
10 this lawsuit, if that makes sense.

11 So the test is always relevance and
12 prejudice, right? I hear there is some relevance,
13 right? Because obviously Southwest needed to know
14 what was in the communications to make a decision on
15 course of action with her employment.

16 Prejudicial, are they overly prejudicial?
17 I don't know that they are overly prejudicial
18 because she was the speaker herself, right? There
19 are times, usually, when I find prejudice, it is
20 someone else that's injecting the prejudice.

21 But if it is the person bringing it
22 themselves, I would be hard pressed to pull out from
23 the jury's view what Southwest was viewing in making
24 a termination decision.

25 So I think, is there prejudice? Well,

1 maybe, but I don't think it is undue prejudice. So
2 I'm not inclined to go that far.

3 What I will say is, I may grant this in
4 part and just say, if there are gratuitous questions
5 of witnesses, right? If we make this case more
6 about politics than the underlying communications
7 did, that is where I do have a problem. Because
8 then that would be you injecting prejudice into the
9 situation. Does that make sense?

10 So I think the jury can see what all
11 Southwest saw from her. But if we are just asking
12 questions, you think that person loved Donald Trump
13 and it is not anchored to an exhibit or a specific
14 statement that Carter told that person, I think that
15 is where we are straying into territory that is
16 undue prejudice.

17 So I plan on granting this one in part and
18 saying in exhibits or specific statements that
19 Carter had made verbally to somebody, that that area
20 is fine to talk about because it is words from
21 Carter's mouth that Southwest Airlines had under
22 consideration when making employment decisions.

23 But if it is a gratuitous statement
24 otherwise, that is a bridge too far for me. That is
25 injecting things into the trial that are overly

1 prejudicial.

2 Okay. So that my ruling on 20.

3 Again, I will give that in the writing in
4 the next couple of days.

5 I have Carter Limine 25 is next.

6 So Carter is seeking to prohibit any
7 attempt to request plaintiff's counsel to produce
8 documents, stipulate to any fact or any make any
9 agreement in the presence of the jury. Southwest
10 was unopposed. 556 doesn't know exactly what this
11 means.

12 So I guess I will -- let me just say, I
13 have seen this play out in trial. Sometimes before,
14 can't we just agree.

15 Let me say this: If you have any
16 situation like that, bring it to a sidebar. Your
17 Honor, sidebar. And if you want the other side to
18 agree to anything, for streamlining trial, let's
19 talk about it at sidebar.

20 Later on, I will tell you losers of
21 sidebar get the time tagged against them for the
22 sidebar. But there are situations where, because of
23 professionalism, you helped streamline something for
24 the jury at a sidebar, and I count that time as
25 against me, not against either of you. Does that

1 make sense?

2 So if you have a sidebar for a noble, like
3 reaching an agreement to streamline an issue for the
4 jury, don't worry about that time getting awarded
5 against anybody. I'm a fair judge. I'm not trying
6 to label someone a bad actor and always tag them
7 with the time.

8 Is there any question with regard to my
9 view of that? That I will grant the limine in part
10 and just say, it is not that you can't talk about
11 it, just talk about it in front of me instead of the
12 jury. Because it is really not a jury issue at that
13 point.

14 Okay. Limine No. 29 is the next one I
15 held back from Carter.

16 So this is Carter seeking to prohibit
17 evidence, statement or argument, for the plaintiff
18 received contributions from family, friends, or her
19 husband. Southwest is unopposed. 556 opposes on
20 the basis of mitigation of damages.

21 So mitigation obviously applies to the
22 next one, too, that I held back, Limine No. 30. So
23 I'll just read it and then maybe we can talk about
24 both at once.

25 Limine 30 is prohibiting references to

1 collateral sources of employee benefits that would
2 have been provided by Southwest but for Carter's
3 termination.

4 And so also same issue as before,
5 Southwest unopposed; 556 opposes on mitigation of
6 damages.

7 So can I hear argument from 556?

8 I understand the mitigation argument.
9 What I haven't seen is a case where mitigation has
10 gone down to friend and family contributions.

11 I have seen cases where mitigation
12 involved other employer benefits that could have
13 been attained.

14 So I guess my question is in line drawing,
15 can you help me -- I understand the conceptual
16 argument for mitigation. I haven't seen it play out
17 in a case where friends or family helping someone
18 get by in the meantime is a mitigation of damages
19 point.

20 Can you help eliminate that for me?

21 MR. GREENFIELD: Yes, your Honor.

22 I am not sure I have seen it play out
23 myself either.

24 But from a theoretical standpoint, if the
25 testimony was to come out or evidence was to come

1 out that Ms. Carter had received ample funds from a
2 family member or what have you, to -- which would
3 then allow her to not have to work or make efforts
4 to work, et cetera, to get back to work, then that
5 should be considered by the jury, as to potentially
6 why maybe her efforts to get back to work weren't as
7 robust as they should have been.

8 THE COURT: Understood.

9 Can I hear Carter's response to that and
10 also, obviously, at the same time, I'm trying to
11 consider the Southwest benefits piece.

12 Let me ask Southwest first, before we ask
13 Carter, can you illuminate for me what benefits we
14 are talking about that she could have obtained while
15 still being at Southwest?

16 I know it is a Union argument, but it is
17 peculiarly within Southwest's knowledge probably.
18 So I'm just trying to figure out what we are talking
19 about.

20 MR. McKEEBY: I suspect that it is
21 medical, dental, kind of your traditional panoply of
22 employee benefits. I'm not sure about retirement
23 and that type of thing. But I imagine it is medical
24 and --

25 THE COURT: Incidentals.

1 MR. McKEEBY: -- incidentals, yes.

2 THE COURT: Got it.

3 Okay. So Carter, I would like to hear a
4 response on other benefits from Southwest and family
5 and friends contributing.

6 MR. GILLIAM: Okay.

7 For the family and friends, that is not
8 evidence that goes towards mitigation. If you are
9 talking about evidence of other earnings from other
10 work, sure, that goes to mitigation.

11 But, you know, things she's received from
12 her husband, from friends, that should be excluded
13 just because it is not related to the issue of
14 mitigation.

15 As far as the collateral sources where we
16 were really going with that is, for instance, if
17 Ms. Carter's husband had put her on his health
18 insurance plan, or she received unemployment or
19 pension benefits, Southwest wouldn't get a windfall
20 from that. That would not go towards mitigation.

21 THE COURT: All right.

22 MR. GILLIAM: For that, I think we rely on
23 a case out of the Fifth Circuit called Phillips v.
24 Westmoore.

25 THE COURT: Phillips v. Westmoore?

1 MR. McKEEBY: Yeah, or Western Company.

2 I can give you the cite, if you need it.

3 THE COURT: That would be great, if you
4 could.

5 MR. GILLIAM: 953 F.2d 923, 1992 case out
6 of the Fifth Circuit.

7 MR. GREENFIELD: Could you repeat that for
8 me?

9 MR. GILLIAM: Sure. It's 953 F.2d 923.

10 MR. GREENFIELD: Thank you.

11 THE COURT: Thank you.

12 So I keep taking Limine 30 under
13 advisement.

14 On Limine 29, what I'm going to say is,
15 I'm going to deny that one.

16 My thought is that I do think friends and
17 family are in a quintessentially unique category,
18 unlike an employer. But that is also why I'm not
19 out of hand, you know, shutting down the notion of
20 Southwest.

21 I do need to figure out how incidental
22 benefits are treated. But if it is Southwest -- I,
23 mean, I've had a case when I was a lawyer where we
24 brought up a retirement account. And so I thought
25 that was mitigation of damages.

1 And so I think employer benefits might or
2 might not be, depending on how they are structured.
3 So I will take a look at the windfall issue and take
4 a look at your case. But I do think when it is
5 friends and family --

6 And I will just say, I think this is an
7 issue that is going to become more and more
8 prevalent with GoFundMe accounts. Because GoFundMe
9 is not your employer, but getting money, it is a
10 windfall.

11 In my view, how I discreetly view this is
12 perhaps different than a GoFundMe even.

13 Although with friends and family, you
14 know, if Carter were to obtain a jury verdict,
15 Carter should pay her friends and family back,
16 right? That is sort of the normal expectation with
17 friends and family.

18 And with a GoFundMe account, I don't even
19 know if there is a mechanism, if it is a crowd
20 funding, if a person gets a verdict, to get that
21 money back to them.

22 And so if it is money that in good
23 conscious should be returned and is returnable under
24 friends and family, then in my mind it almost seems
25 more like a loan than a windfall.

1 And if it is a crowd funding situation,
2 with no recoupment, then it seems like a windfall.

3 So the courts haven't spoken to GoFundMes
4 yet, but I'm not sure how that is good to play out.
5 But that is how I view it in my mind as different.

6 So I will research more on Limine No. 30
7 and get y'all a ruling back in writing.

8 Southwest, we had Limine 1 on Southwest,
9 where Southwest was asking to limit testimony and
10 evidence related to treatment of other employees.

11 I think the Southwest argument was, we
12 should do so because evidence regarding an
13 employer's treatment of a non-party employee is only
14 relevant if they are a comparator.

15 And there are no comparators in this case.
16 Carter was saying this was not about pretext and
17 comparators, it is about Union knowledge of
18 employees and disciplining employees and their
19 overall effort to discipline recall supporters.

20 So I guess this, what started off as a
21 fight between you two, is not really a fight between
22 you two. So I would like to hear arguments on this.

23 I will just say from reading it -- I will
24 put this in my ruling, but in reading it, my
25 question is, should it come in but for the limited

1 purpose of evidence with regard to the Union and not
2 Southwest? Right? Because I can admit evidence
3 with a limiting instruction.

4 And so that is my initial read, but let me
5 get y'all's thoughts on the situation where it
6 stands now, that it is really almost more of a Union
7 issue than a Southwest issue.

8 MR. GILLIAM: That is correct, your Honor.

9 We are seeking that evidence, to include
10 that evidence because we want to be able to
11 demonstrate that the Union and its representatives
12 were trying to target other recall supporters that
13 they were putting constant pressure on Southwest,
14 not that Southwest -- not how it specifically
15 reacted to it, but that the Union was trying to make
16 a concerted effort right around the same time that
17 Ms. Carter was fired to -- to cause other recall
18 supporters harm.

19 We think that this employee discipline
20 evidence is also very important to showing that
21 Ms. Stone was acting within her official capacity,
22 the grievances she handled in the past, for
23 employers like Brian Talbert, who called for the
24 public execution of the Union opponents, that
25 Ms. Stone was willing to assist Mr. Talbert in his

1 grievance, but then said she felt threatened by
2 Ms. Carter's statements. So I think it is relevant
3 to that as well.

4 And again, going back a little bit more on
5 the official capacity issue, there is a lot of
6 history of Ms. Stone taking employee grievances to
7 Southwest managers. That was something she did.
8 She took disciplinary issues directly to many of
9 Southwest's upper level managers, vice presidents,
10 directors of labor relations.

11 And so employee discipline is critical to
12 defining the scope of Ms. Stone's scope of capacity.

13 And I would also say that, you know, if
14 the Union wants to put on evidence of its
15 representation after Stone fired Carter, what is
16 good for the goose is good for the gander.

17 Basically, how the Union was also treating
18 all of these other recall supporters is relevant to
19 her RLA and DFR claims.

20 Each time a Union official turns in a
21 represented employee, it is presumed under Caravan
22 Knight and a long line of cases that that violates
23 the duty of fair representation.

24 So it is very important evidence to
25 showing whether the Union violated its duty of fair

1 representation when it reported Ms. Carter.

2 THE COURT: Thank you.

3 Can I hear from the Union first and then
4 Southwest?

5 MR. GREENFIELD: Yes, your Honor.

6 First and foremost, I would like to
7 disagree with Mr. Gilliam's characterization of the
8 case law he just cited. I believe that is
9 incorrect.

10 I think potentially further briefing on
11 this might be appropriate just because now it has
12 turned from an argument between Southwest and the
13 plaintiffs to an argument on whether certain
14 information should come on between these two
15 parties.

16 I think in regard to similarly-situated
17 employees, et cetera, I think that the argument
18 still similarly tracks. What is the nature of these
19 other individuals that they are seeking to bring
20 forward? Are they similarly -- are the situations
21 similar between who turned in these employees? Were
22 they board members? Were they Union objectors?
23 Were they Union members? Where these people fall in
24 these different buckets and categories, I think,
25 affects whether the information is relevant for the

1 jury to hear.

2 THE COURT: Understood.

3 So what I will ask on this one is, I am
4 going to ask for more briefing because of the
5 original two-sided nature of the fight has now
6 turned into a little bit different two-sided fight.

7 So I will say that I agree with
8 Southwest's initial position that because we don't
9 have a designated comparator. I don't think this
10 information should come in as to Southwest.

11 But now the question is, should it be kept
12 out as to the Union as well because of the
13 situations being sufficiently different that it is
14 marginal relevance and undue prejudice.

15 So what I'm going to do is say that you,
16 Mr. Greenfield, can file a belated motion in limine
17 addressing the topics you would like to exclude,
18 right? So I think it is now your limine. You are
19 taking the baton from Southwest because I'm going to
20 rule only as it pertains to Southwest and say this
21 information does need to stay out as to Southwest
22 because of the lack of a co-comparator -- lack of a
23 comparator.

24 But the separate question is, Union, can
25 it come in with a limiting instruction? Are there

1 some examples that are so far afield that they just
2 can't come in?

3 What I would like is, if you could turn in
4 a written document -- maybe let's keep it to six
5 pages or less, and by Monday at 5:00.

6 And then I would like to hear any response
7 from Carter Wednesday at 5:00. And the same page
8 limits, six pages or less.

9 And then I will go ahead, when I push out
10 my updated ruling, I will say I'm granting this
11 limine as to Southwest, not citing any issues for
12 the Union until I see further briefing.

13 Okay. So I think that is all that I had
14 covered on limine points.

15 Is there any other limine point that we
16 need to talk through, that anyone knows about?

17 MR. McKEEBY: Your Honor, on that last
18 point, I mean, I guess it depends on your ultimate
19 ruling, but Southwest's concern is -- goes to the --
20 what -- if the evidence comes in -- and you tell me
21 if we should just table this. But if the evidence
22 comes in, it should be limited to the report by the
23 Union of the conduct.

24 What I want to avoid is evidence of, you
25 know, here is a Southwest flight attendant in

1 California who posted a video threatening a
2 politician. And then Southwest having to explain
3 how it handled that situation, if we can.

4 That was the purpose of our motion in
5 limine. I guess once we get to the point of a
6 ruling, then I want to make sure that that issue is
7 preserved as to exactly what comes in.

8 THE COURT: Sure.

9 So you are hoping to keep it to the report
10 so that it is not a free-for-all.

11 MR. McKEEBY: Correct, essentially.

12 THE COURT: Understood.

13 So what I will say is, I think that baton
14 is now passing to you. If anything comes in, I will
15 still say you preserve your argument on that. And
16 we will take it up.

17 If you want to inform Mr. Greenfield,
18 briefing on the nature of what comes in and not just
19 who it pertains to, right? We have had a discussion
20 on which witnesses had that evidence that might come
21 in. Then let's tee it up more thoroughly.

22 I -- I'll let you -- let's call it seven
23 pages, because I know if you suggest to him, Hey,
24 let's talk about what comes in, then he's going to
25 be cramped for the six pages already.

1 I'm fine talking about that. And I will
2 just bear in mind for limiting instructions, if I do
3 let anything in, in this space, I will rely on y'all
4 to preview for me when it is about to come in.
5 Because when it comes in, I will say, jury just
6 heard X. I have admitted X only for purpose in the
7 use of the claims between Carter and the Union, not
8 between Carter and Southwest.

9 So whatever we let in, I need to give the
10 instruction as it comes in.

11 MR. GILLIAM: Your Honor, to clarify, will
12 our response now be seven or six?

13 THE COURT: Seven. I'm a proportionate
14 person. You have got seven.

15 And I'm not going to do a reply because we
16 are in pretrial mode. Let's just say everything you
17 need to in those first two documents. And then I
18 will try to get a written ruling, that will be the
19 last thing I think I save for y'all. So I will have
20 a second amended limine order coming out in the next
21 few days and then a third amended that comes that
22 addresses this last limine issue.

23 Okay. So I think that is all on limine.

24 Sorry to give y'all more work in the
25 pretrial posture. At least we have more than a week

1 between now and trial.

2 Voir dire is the next topic I have down.

3 And it is a lengthy one.

4 I will tell you everything I'm thinking on
5 voir dire. Because this is what most people are
6 wondering, if it's their next course of action.

7 It says on the docket that we are going to
8 look for a jury of eight. I try to find a jury as
9 close to our six at a civil trial as possible, but
10 with the constraints of a pandemic and sometimes we
11 lose jurors, then we usually have been running with
12 juries of eight, unless it is like a one-day trial
13 and then we will run with seven.

14 So I think eight is the smallest number as
15 I can safely get.

16 Each side has their three peremptory
17 strikes, but you have unlimited challenges for
18 cause, obviously.

19 I do think with a case that touches on
20 abortion and politics, to an extent, that we might
21 lose a good bit of people on challenges for cause.
22 Normally, we don't, right? I try to get people to
23 commit to me whether or not they could be fair, if I
24 told them they had to keep an open mind. But we
25 just might lose more than normal.

1 Normally, I would bring in 25 jurors for a
2 civil case, picking an eight-person jury. Here, I'm
3 going to change up that protocol on you and use my
4 criminal protocol, where we are looking for a
5 14-person jury. I'm going to bring in 50 people,
6 which we cannot fit in this courtroom. We can fit
7 25 in this courtroom.

8 We are going to pick the jury downstairs
9 in the big jury assembly room. We used to pack in,
10 before COVID, 400 people in that room. We can space
11 out 50 and do perfect social distancing.

12 So we can get 50 people in, even if we
13 lose a bunch on challenges for cause, on
14 abortion-related issues, then we should be fine
15 finding a group of eight impartial people out of
16 that group of 50.

17 That room, if you want to stick around for
18 a few minutes after we finish up today, you can see
19 that room. Mr. Frye will show it to you.

20 It will not be set up today like we will
21 have it set up for picking the jury on July 5th at
22 one. I can tell you a sketch about it now. Mr.
23 Frye can fill you in when you are in the room
24 scoping it out today.

25 At the back of the room is where there is

1 going to be a long series of tables. I will be on
2 one end. There is going to be a podium, just to my
3 left, where you can get up and ask questions from
4 when it is your turn.

5 And then everyone sitting at counsel
6 table, all the way down. And then the jury is going
7 to be spaced out in a bunch of rows; juror number
8 one is up close and juror number 50 is way at the
9 back of the room.

10 We will have two microphones set up in
11 there on a stand, one close up to the front, one a
12 little bit farther back, probably halfway back in
13 the room. So if it is the second half jurors
14 talking, they don't have to awkwardly walk all the
15 way up.

16 That is how the room is set up. And so we
17 will bring in all 50 jurors at that point in time
18 and question them all together as a panel.

19 How I handle voir dire is I ask the first
20 round of questions, but I had enough state court
21 time where I like y'all getting a touch on the
22 football, so y'all get to get a better feel for the
23 jurors than just seeing their reactions to the
24 questions I will ask.

25 I will go for probably about 30 minutes

1 with the Fifth Circuit standard instructions and
2 then some basic questions.

3 Some of the basic questions that I ask
4 are, who do you know questions. I like to get those
5 out of the way. But in my questioning time, I'm
6 going to ask the lead lawyer for each group to
7 introduce everyone at their table, right? Including
8 their clients or corporate reps. See if anyone
9 knows them.

10 So be ready to introduce your table when I
11 ask my questions.

12 And then after I have asked you to
13 introduce, I also ask you to read your witness list.
14 So have your witness list handy when I start my voir
15 dire, and then I will have you stand up at the
16 podium and then read off your witness list. I will
17 ask if anyone knows them. What I will try to do is
18 get y'all my list of my questions before that
19 Monday -- before that Tuesday July 5th. That way,
20 if I'm asking the who-do-you-know questions or
21 anything else that is on your list, you know you
22 don't have to ask it.

23 I have had that happen one time before,
24 where a lawyer keeps asking questions I already
25 asked. And it really loses your credibility with

1 the jury. So I'm going to try to give you my list
2 in advance so you can cut off the questions I'm
3 already going to cover.

4 When I give the baton to you to ask
5 questions, y'all have already filed your proposed
6 voir dire questions, and I will go through those in
7 just a second. And they look pretty good. I do
8 just have a few I want to talk about.

9 You can ask any questions that you ran by
10 me in writing, right? The questions you have
11 already submitted to me. You can also ask any
12 reasonable follow-up question.

13 If you get the sense that someone is about
14 to just drop a bomb, let's approach at sidebar,
15 right? Sidebar is going to be harder in that room.
16 Here we all know what sidebar is. But, like, if
17 someone is about to say that they had an abortion
18 and they would do it again, or I have had an
19 abortion and I regret it every day since. Like if
20 someone is getting to that point, come over and
21 huddle at sidebar. I have the ability to, after the
22 group questioning is over, kick everyone and say,
23 I'm going to call back in Juror No. 7. And we had a
24 sense that you were going to say something, but it
25 was a group setting, it was hard to say.

1 So if you have a question where someone
2 could be busting a panel, please just flag it,
3 sidebar, we are going to go huddle where I'm at.
4 And we will talk through it to make sure we don't
5 bust a panel.

6 If we bust a panel in this case, it will
7 take days and days to circle back and get another
8 group of jurors. So please work with me, the
9 courtesy I'm extending to y'all on questioning
10 witnesses, don't blow it.

11 If we blow it, then the next time we
12 question witnesses, it is just me who is going to
13 question the witnesses.

14 So get a sense for where that line is.
15 Usually, it is not too dangerous, but here it might
16 be with the abortion issue and politics running
17 around in the background.

18 Okay. Does anyone have questions on
19 generally how I handle voir dire? I go first. 30
20 minutes per side. If anything is too sensitive,
21 call for a sidebar and we will figure out if we need
22 to ask a question in the follow-up.

23 MR. GILLIAM: No, your Honor.

24 MR. PRYOR: Your Honor, I'm sorry.

25 THE COURT: Go for it.

1 MR. PRYOR: The jury card, will we get
2 those?

3 THE COURT: Yes. So the clerk's office
4 call them juror information forms. And they will
5 have the standard information on it, you know, what
6 is your occupation, where do you live, what is your
7 spouse's occupation, things of that nature. And so
8 you can tease out some information there.

9 I will say -- and that is a good question
10 for me to say, when I tell you, you can ask two
11 things, the preapproved questions or reasonable
12 follow-up, I will allow you to ask the third
13 question, which is, if it is a question based on the
14 juror information form, right?

15 If someone says that they are a lawyer, I
16 noticed you answered you are a lawyer, you are
17 lawyer, where do you work at. That is fair to talk
18 about.

19 If it is overly sensitive, if you work at
20 an abortion clinic, maybe like flag for me and save
21 it for an individual question.

22 I think juror information forms are fair
23 game for you to ask for without preapproving a
24 question.

25 MR. PRYOR: Your Honor, and I may have

1 missed it, how many peremptory strikes?

2 Is it going to be equal to side as opposed
3 to party?

4 THE COURT: That is a good point.

5 We need to think through that because it
6 is listed as three per side. And so the question
7 is, do you want more? If I give you more, then I
8 have to think about, do I give them more? And we
9 get into a bit of a tailspin.

10 Do y'all have thoughts on peremptories and
11 three per side, whether or not you can work well
12 together? Or if I need to make it four, with a two
13 and two split, where you don't have to work well
14 together. And I think about whether or not I give
15 them an additional peremptory.

16 MR. McKEEBY: Can you -- so the options
17 are we get a total of three from the Defendants or
18 two each and then they get a total of four?

19 THE COURT: Those are the options I'm
20 thinking through. Either you have the pooled three
21 and they have three. Or you have, if you don't
22 think that it will be perfect cooperation, which is
23 hard to predict, if you would like to strike a
24 different person, for example, then I would be
25 amenable to giving y'all four with a split two and

1 two. And you don't have to pool.

2 If I give y'all four, then I think I have
3 to give them a fourth. I think I could do it based
4 on us bumping up to 50. If we were looking at 25 in
5 this case, I think I would get nervous about whether
6 I would run out of people.

7 MR. McKEEBY: I -- my preference is for
8 two and two with those options.

9 THE COURT: Okay. Any objection?

10 MR. PRYOR: Your Honor, are you asking how
11 many strikes per side?

12 THE COURT: You would want a million, but
13 I can't do that, right? So you can ask for whatever
14 you want but, again, I'm the one sitting here doing
15 the math and figuring out if we are going to run out
16 of people.

17 MR. PRYOR: Apparently, I would like six
18 per side, but four is four -- we will be there.

19 THE COURT: Four is better than three.

20 Mr. Greenfield, no one has asked your
21 thoughts. I haven't ruled yet.

22 MR. GREENFIELD: Yes, your Honor.

23 Southwest and the Union haven't discussed
24 if we have similar paths, as far as who the jurors
25 would be. So my thought would be three, three, and

1 three, just from the standpoint that I don't know
2 that our ideas align on who our jurors would be.

3 And it is making an assumption that we
4 would. And maybe we do get along on who we want and
5 who we don't. I just don't know at this point.

6 THE COURT: Yeah. So I get that. But in
7 my view, I have to keep it even per side. So what
8 I'll do is the two, two, and four. And that matches
9 up with the time clock that I put in, right? The
10 totals across the V equate, and then there is a
11 split for if you don't cooperate.

12 And obviously, I will tell you this on the
13 protocol right now, I ask questions first. Then we
14 go in order, right? 30 minutes per party, right, is
15 how I'm doing it; 30 minutes for everybody to get a
16 touch on the football in voir dire. I let each side
17 have their own pool. So 30, 30, 30.

18 After that, if we don't have any
19 individual people who had overly-sensitive potential
20 answers that we need to visit with, I kick all the
21 jurors out to the hall. We talk about anyone who
22 had excuses, right? Scheduling, undue hardship,
23 anything like that first.

24 And I make a ruling on excuses, so if we
25 excuse people, I've got kids under 10 at home,

1 right, you never should have showed up to the
2 courthouse. I excuse them. They are out of
3 consideration.

4 But then we talk about challenges for
5 cause. Someone who said, Hey, my beliefs are so
6 strong on abortion one way or another, I just can't
7 be open-minded in this case.

8 And then after I have struck all of those
9 folks for cause, then I go off the bench and y'all
10 use your peremptory strikes.

11 Y'all might agree on which four you want
12 to strike. It doesn't matter to me whether you pool
13 or not. I just know I have given you two each,
14 being fair in that regard.

15 And then I come back on the bench when
16 y'all have all agreed who you are going to strike.
17 We figure out who our jury is and we call them back
18 in.

19 I will excuse everyone that is not on the
20 jury from service. And then everyone who is on the
21 jury, I will say, come back tomorrow at 8:45, we
22 will start at 9:00 for opening arguments.

23 So that is the run of show on voir dire.

24 Any questions so far on that?

25 MR. GILLIAM: Yes, your Honor.

1 You may have said, how much total time do
2 the parties have for voir dire?

3 THE COURT: So y'all will get 30, 30, and
4 30.

5 I'm giving each lead lawyer a 30-minute
6 touch on the football when it comes to voir dire.
7 We should be able to pick our group in an afternoon.
8 It will probably take all afternoon.

9 I will say this, as just a procedural,
10 mechanical thing, when we are in the room where
11 there are 50 people and two microphones, you can't
12 get a verbal answer from every person to a question.

13 And so I frame mine, y'all frame most of
14 yours as sort of yes/nos. You can ask people to
15 explain their answer.

16 I also de-identify the potential jurors.
17 Because they might say something, like, I have had
18 an abortion. I don't like there being a written
19 record of any of their answers tied to their name in
20 court. If that makes sense. I know it is
21 impersonal and I apologize to y'all for it being
22 impersonal, but I have talked to jurors who have
23 strong concerns, even in civil cases about that.

24 So we give them all a placard, it has got
25 a number on it. And when I go in my 30 minutes or

1 so, I will ask them, raise your placard, if you have
2 served on a jury before. And then I tell them, hold
3 your placards up, and I will call them off in order
4 number lowest to highest, and put your placard down.

5 Jurors are pretty good at everything
6 except that. The problem is they either won't hold
7 their placard up. They will forget about it until
8 the very end. Or they will hold it up on the first
9 row, where I can't see anyone behind them long after
10 I have called their number.

11 I will beat them into shape for y'all so
12 that by the time, Mr. Gilliam, you start asking your
13 questions, hopefully, they will know the placard
14 routine, hopefully y'all will see, okay, I'm going
15 to call them off. Because if you don't call them
16 off, it is not in the record, the Court of Appeals
17 can't see it.

18 If you want to ask them, Hey, can you come
19 up to the microphone and tell me about what kind of
20 jury you served on, that is totally fine.

21 Keep in mind the flow. You can get a lot
22 of questions in your 30 minutes if you get your flow
23 down and don't ask questions that burn all of the
24 time on one question.

25 So you will see how I'm doing it. But

1 think through efficiency for your sake, because I
2 don't want you only getting in two or three
3 questions in your 30 minutes because you asked them
4 the wrong way.

5 Okay. So substantively, we should talk
6 about a few of these questions to flag. Let me flip
7 to Carter's proposed voir dire questions first.

8 I had --

9 MR. PRYOR: Your Honor, and I'm sorry. I
10 went swimming with my hearing aids, which was not a
11 good thing. I apologize. I'm not quite catching
12 it. I will fix that before trial. Thankfully, the
13 only thing I think I am involved in is the voir
14 dire.

15 That last question I had, of our 30 hours
16 of trial time for plaintiff, does the 30-minutes
17 count against our time?

18 THE COURT: Good question.

19 I think it is 12 hours. So nice try.
20 That was slick. Appreciate it.

21 So your 30 minutes of voir dire does not
22 count.

23 MR. PRYOR: All right. Thank you.

24 THE COURT: I will get to this a little
25 bit more in time limits. None of that counts until

1 I bring the jury in and swear them in.

2 MR. PRYOR: And what about opening? And I
3 know I skipped beyond voir dire there.

4 Does that count towards the 12 hours?

5 THE COURT: Yes. So the 12 hours --
6 anything that is counted is when the jury is in the
7 box and you are consuming the time, right?

8 MR. PRYOR: Got it.

9 THE COURT: That is the general rule,
10 right?

11 Opening, you are consuming the time. If
12 I'm reading the jury charge, you are not consuming
13 the time, that is on me, right?

14 If we are in here talking about the charge
15 conference, they are not in the box. If we are at a
16 sidebar, that you lost horribly, then, yeah, the
17 jury is in the box and they are sitting there
18 because of you and your horrible objection at
19 sidebar that I overruled.

20 Does that make sense?

21 So make good objections. But I will cover
22 my exhibit objection protocol here in a little bit
23 and you will see that I try to minimize those
24 sidebar times.

25 MR. PRYOR: Can I ask one more question

1 about time?

2 I just finished a trial where at the end
3 of the day we had to report to the panel how much
4 time we thought we used. We kept track of our own
5 time.

6 Do you keep track of our time? Is there a
7 way we can check with someone? We may get a little
8 close towards the end.

9 THE COURT: Yeah. So time clock I have a
10 little bit later, but let me knock out the rest of
11 the questions because that's basically the only
12 other time clock question that we have.

13 At the end of every day, you will get an
14 email from Mr. Frye that has two things in it. One
15 is the updated exhibit list that we keep track of
16 every day. Two is where you stand on your time
17 clock usage.

18 And so you will be able to keep track
19 based on that. After every sidebar, by the way, I
20 email both Kevin and our law clerk, Ms. Silver, who
21 is working on this case and say, here is who lost
22 that sidebar, right? And they are keeping the stop
23 watch to figure out who actually has that.

24 If you are wondering, our stop watch, when
25 it begins and ends, when I say, okay, Mr.

1 Greenfield, you can question the witness, that is
2 their signal to start it.

3 So I have had lawyers who are not used to
4 shot clocks who would sit there and look at their
5 notepad for an awkwardly long two-minute period of
6 time to figure out what all questions they would
7 think about asking.

8 The jury is in the box and I have just
9 announced it is your time. So you can't just sit
10 there at your seat awkwardly, and as if it is not
11 your time and have it not count against you.

12 But I'm also not going to game the system.
13 You won't see, you know, Southwest finish a question
14 like an auctioneer, right? And then say, Hey,
15 Greenfield. I try to actually make it slower
16 because in my mind, we are a family presenting this
17 case to the jury. And if they see me trying to
18 weird things like that, it's just not a good vibe to
19 it. So I'm going to pause for a little bit. Then
20 I'm going to say, Okay, Mr. Greenfield, it is your
21 turn to question the witness.

22 So I don't try to force people into
23 un-winning situations on the time clock.

24 I think I did say, if someone runs out of
25 time, they can ask for more, but they have to show

1 that they used their time efficiently and what they
2 need to use their extra time on.

3 On efficiency, I keep track of efficiency.
4 I keep a running list with my staff on ways in which
5 you were inefficient.

6 And so I will just tell you the one thing
7 I think people could have done to avoid every
8 inefficiency I have seen is to just ask themselves
9 what do I want the jury -- if the jury goes on a
10 break right after this witness, and the jurors are
11 back taking their 10-minute break, what do they want
12 to remember from this witness?

13 I had a criminal trial where the star
14 witness in a case was the lawyer that provided legal
15 advice to the defendants long ago, right? So that
16 might be an affirmative defense, right? My lawyer
17 gave me this advice that I should do this and I
18 followed it.

19 So what the jury really wanted to hear
20 from that witness was, you have been a lawyer in the
21 field for 30 years, the defendants hired you to give
22 them legal advice, you gave them legal advice and
23 you followed it.

24 That is it. It should take about five
25 minutes. The witness was up there three hours. And

1 then the jury did not remember anything the witness
2 had said by the time that witness left the box, all
3 right?

4 So what does the jury need to remember
5 from this witness? Based on what you need to prove.
6 If you start with that, then you can just throw a
7 brick and sit down. And I will have no complaints
8 about your efficiency.

9 MR. PRYOR: And I think it goes by what
10 you have said, so closing is also part of the 12
11 hours?

12 THE COURT: That's correct. Closing is.

13 But obviously, it does not include my
14 time, which is jury charge or if y'all are talking
15 about sidebars in a way to be efficient and reach an
16 agreement, that is my time.

17 MR. PRYOR: Okay. Thank you, Judge.

18 THE COURT: Okay. And then remember if
19 you are getting close to running out of time and are
20 asking for more, what I really want to hear from
21 you, I have thought of your efficiencies, lack
22 thereof. What I really want to hear from you is
23 what more time do you need? And what will you do
24 with it?

25 Be specific, right? If you are not

1 specific, I can't really judge your request on the
2 merits.

3 And don't ask too early.

4 In the last trial, I had the Government
5 ask for more time when they still had three hours
6 left. I said, you are way too early. You have
7 three hours. You can do a lot in three hours. And
8 they did, they finished their case in three hours.

9 So don't ask too early because that tells
10 me that you plan on being inefficient. Ask when you
11 are nearly out of time because that shows me you
12 were efficient and needed more despite your
13 efficiency.

14 Cross-examination of a witness, right?
15 That is you, taking time when the jury is in the
16 box.

17 I will say on time limits -- I don't think
18 I will have this problem in this case. I have had a
19 handful of cases where lawyers have tried to game
20 the system, including through their witnesses.

21 Gaming the system through your witnesses
22 amounts to telling them, Hey, everyone is on a time
23 clock, so slow the other side down during
24 cross-examination.

25 I don't see the lawyer telling their

1 witness that, but I see the fruits of it on the
2 stand. When they were incredibly efficient on
3 direct, and then when it comes to cross, I don't
4 recall that email. Can you show it to me? And then
5 you take three minutes to review a one-page email.

6 Don't do that. I think y'all are
7 professional and won't.

8 I will tell you how I handled that the
9 last time. The side I saw doing that, I denied
10 their request for more time. And I proactively gave
11 more time the side they were doing it to. Does that
12 make sense?

13 I'm a judge. I can figure out remedies.
14 Remedies is all we do all day every day. So I want
15 y'all's commitment to not tell your witnesses about
16 the time clock. Your party, your corporate reps
17 will obviously be in here and they will know about
18 it. But tell them, be forthright.

19 Again, we are all a family presenting this
20 case to the jury. And they will be thankful, if we
21 to do not and not thankful if we game the system.

22 Any questions on the time clock?

23 MR. PRYOR: When you are talking about
24 gaming the system, it made me think about objections
25 during trial. And some of your limine rulings

1 you -- there may be heaping helpings of evidence
2 coming in that we will want to make sure we preserve
3 a record.

4 I know judges don't -- I'm not fond of
5 continuing objections either, on the other hand, I
6 don't want you thinking that I'm gaming the system
7 by objecting every time they ask a question relating
8 to X.

9 THE COURT: So you are trying to object to
10 preserve the limine ruling?

11 MR. PRYOR: I'm sorry?

12 THE COURT: Well, give me a more concrete
13 context for your example.

14 MR. PRYOR: Well, I mean, maybe an easy
15 one, if you allow evidence of a collateral source,
16 and they are asking questions about her husband or
17 her mother.

18 I don't know who all the collateral source
19 issues are, and I know that I have objected once to
20 it. And then I have got another question, and he's
21 got five more questions on it and I'm objecting,
22 objecting, objecting.

23 Judges get pretty frustrated with that. I
24 only thought of it because I didn't want you to
25 think I'm trying to waste their time.

1 THE COURT: What I will say on that, once
2 we see how -- how that is going, I will grant
3 someone a running objection rather freely when we
4 have a time clock in place. Does that make sense?
5 I think the frequent objections on different
6 topics --

7 MR. PRYOR: Okay.

8 THE COURT: -- so I have no problem
9 saying, yeah, I will give you that running
10 objection. That way you are not breaking up their
11 flow, you are still preserving your error and then
12 we are not wasting the jury's time.

13 MR. PRYOR: That is helpful. Thank you,
14 your Honor.

15 THE COURT: I will say also, once I have
16 set my limine rulings, there are lawyers that like
17 to get up and object to relevance, scope,
18 cumulative, all the time, like every question. I
19 have had that before, too.

20 Please don't do that, right? I mean, if
21 something is truly irrelevant, I will keep it out.
22 A lot of times, the thing has marginal relevance.
23 It is your opponent, so you think it has no
24 relevance, but it has marginal relevance. I put
25 y'all on a clock, right? That is how they want to

1 use their time. You should be sitting there
2 thinking, sweet, I am glad they are not getting to
3 the good stuff, right?

4 But a lot of times things have marginal
5 relevance, no prejudice. If that is how you want to
6 use your time, I will let you. If you are objecting
7 to every question on that basis for a several-minute
8 period, then I'm going to call a sidebar and I'm
9 going to remind you that I put in the time clock to
10 help you by having them use their time
11 inefficiently.

12 And because of all of your objections, now
13 I'm going to have to give the inefficient person
14 more time because your objections are taking time
15 for me to rule on.

16 That is another way to gain the system
17 that I compensate for. So I will award people more
18 time on the other side, if there are just frequent
19 objections on relevance, cumulative, that really are
20 getting overruled all of the time. And my time
21 clock is there to solve efficiency problem anyways.

22 Any other questions on the time clock?

23 MR. GREENFIELD: Yes, your Honor.

24 THE COURT: Yes. Go for it.

25 MR. GREENFIELD: I believe your order

1 discusses that defendants can pool their six hours
2 each. How would the Court like to handle that? For
3 example, if Southwest is presenting witnesses first,
4 I would be hesitant to give them time knowing that I
5 may not get it back.

6 THE COURT: Yes.

7 So what I would say is, I would encourage
8 you -- just from me putting myself in your shoes, I
9 would encourage you not to make a pooling decision
10 until late in the game. And I'm not even going to
11 ask you for one.

12 We are just going to keep three separate
13 time clocks, unless you affirmatively tell me, later
14 on in trial, Hey, we decided to pool.

15 That is what happened in my last trial. I
16 had three defendants, and two of them decided to
17 pool, but only as one was nearing the end and they
18 wanted to help each other out because that person
19 had the witnesses that were helpful to both of them.
20 Does that make sense?

21 I don't think it is a decision you can or
22 should make on the front end.

23 MR. McKEEBY: Pooling just means I give
24 the Union some of my time or vice versa?

25 THE COURT: I would say that now it is one

1 time clock for the defense, and y'all have 12 hours.
2 At that point, I'm going to stop keeping a separate
3 time clock for the defense. And if the defense
4 collectively runs out of time and needs more, then I
5 will look, have y'all been efficient and, yeah,
6 pooling in my view is a view of efficiency, you have
7 tried to be efficient in pooling.

8 How much more time do you need, what do
9 you need it on. Does that makes sense?

10 So I wouldn't make a decision on pooling
11 yet. One of you may be horribly inefficient. You
12 don't want to give your hours to the other side, if
13 you don't know that yet. You know about five
14 minutes into the first witness cross-examination,
15 how efficient your co-defendant's lawyer is.

16 Other questions on time clock?

17 All right. Let's jump back in to the
18 proposed voir dire questions, and then we will
19 probably take a quick break after this.

20 Okay. So proposed voir dire questions.

21 I have a question from Carter, No. 10.

22 The second sentence of this question is,
23 Is there anyone here that feels strongly about
24 abortion, such that you will not support a political
25 party or vote for a political candidate based on

1 your view about abortion.

2 MR. PRYOR: Which number is that?

3 THE COURT: This is Carter 10, second
4 sentence. Let me make sure that everyone is there.

5 So I think it is page 24 of the pretrial
6 order.

7 Okay. So there are three other sentences
8 in here that I don't think have any issues. The
9 reason I have an issue with the second sentence is
10 it is asking, are you going to vote based on your
11 beliefs.

12 Anytime I ask someone how they are going
13 to vote, I just shut that question down. Right?
14 Because we've got ballot secrecy concerns. I think
15 there is discoverable information out there, and I
16 think you have asked about it in your third and
17 fourth sentence, what discoverable information is
18 out there.

19 But there is some matters of life that are
20 so private, some religious areas that we will get
21 to, some political areas like voting, that I don't
22 think we can get there and delve there.

23 And I will give you an example. Voting?
24 No. Showing up to a protest or rally? Yes. And so
25 there is Fifth Circuit case law, mostly in the

1 religion context. Your religious affiliation? No.
2 Your very overt religious activities, like showing
3 up to a church rally for X, Y, or Z? Yes.

4 You are holding yourself out publically
5 and identifying in that way, whether it is religion
6 or politics.

7 So I think the second sentence I can't
8 allow in question 10. But I can allow everything
9 else in the second sentence.

10 Any questions about that one?

11 MR. PRYOR: Your Honor, on that, the
12 political party question, what about a question of,
13 Is there anyone that feels so strongly about
14 abortion that it is -- it is the single issue for
15 you in making a decision to vote?

16 THE COURT: I still can't get there.
17 Based on the --

18 MR. PRYOR: Same problem.

19 THE COURT: Even though it is not asking
20 who would they vote for, I mean, ballot secrecy is
21 still like -- there are other ways you can find out.
22 I think you are asking them in sentence three and
23 four.

24 MR. PRYOR: All I'm really trying to find
25 out there, the ones that -- this is such an

1 emotional issue for them, we can evaluate whether or
2 not we think they would be appropriate for the jury.
3 And maybe these other questions get there
4 sufficiently.

5 So avoid the political party abortion
6 question or candidate question?

7 THE COURT: Right.

8 MR. PRYOR: Okay.

9 THE COURT: Exactly.

10 Yes. It is asking someone how they have
11 or would cast their vote based on an issue. And I
12 think those are areas where the -- the only area
13 where I feel like I can do anything about that is
14 when someone has accused someone else of
15 fraudulently casting a ballot.

16 And that is the only area where I have
17 such inherent authority I can overcome ballot
18 secrecy.

19 And this is not that. It is not, was your
20 ballot fraudulently cast.

21 MR. PRYOR: Your Honor, you raised an
22 issue earlier about abortion and about potential
23 jury members that have had abortions. I actually
24 didn't include that question in my list, but now I
25 think it should have been. And I kind of hem-hawed

1 all around it. It is probably -- boy, it is such
2 a -- I want to ask and then have them raise their
3 hands, and then you will have the numbers and then
4 we can talk? I mean, it is a terrible thing to ask,
5 I know but --

6 THE COURT: So --

7 MR. PRYOR: I'm not deciding --

8 THE COURT: I couldn't in good conscious
9 let you ask for a show of hands. Right? I just
10 don't think I could do that. Because then it is
11 publicly shaming somebody.

12 If there is another way, tell me another
13 way. You know, whether, you know, including a
14 one-question juror information form addendum.

15 You know, there may be other ways to skin
16 the cat, but I don't think we can do that in a
17 public fashion.

18 Okay. So I will let you think about it.
19 Circle back with me before we end our pretrial
20 conference. See if you have a different method for
21 asking that question.

22 So the next one I put a note on is Carter
23 Question 11.

24 MR. HILL: Circle back on it.

25 THE COURT: Discussing abortion with

1 family members.

2 You know, I think this question is close.
3 I will probably allow it, but I'm going to limit any
4 follow-ups, right?

5 If they start talking about knock-down
6 drag-out fights at home, then that is probably
7 something that we shouldn't be talking about in the
8 group session, right?

9 The last -- the last thing we want is like
10 an old west bar, where one person says something and
11 everyone gets up and everyone turns on everyone.

12 When I talk about panel-busting questions,
13 usually for some people it is some theoretical,
14 mythical thing. Here is the real.

15 You don't want a person getting up and
16 saying something that triggers at least half the
17 room, and the old west bar fight arises, right?
18 That is where we bust a panel, and we don't need to
19 bust a panel here.

20 So I'm trying to be overly careful. So I
21 will let you ask question 11, but don't get into the
22 follow-ups, right? We don't want to bust it.

23 MR. PRYOR: Judge, do you want to ask some
24 of these questions?

25 THE COURT: I can ask some of them and

1 honestly, like, some of them, I might ask.

2 MR. PRYOR: I'm just saying, I think it
3 puts a particular onus on these parties and it is
4 going to sound better coming from you.

5 THE COURT: Yes.

6 MR. PRYOR: I just raise that issue. And
7 if the Court -- it is difficult for all of us to
8 deal with, but, unfortunately, we have to here.

9 THE COURT: That leads me to my next one.
10 So I will show you, right? When I email my list of
11 questions, you will see which ones I am asking. And
12 I will pick up a few on this topic.

13 Carter question 13 is one where I want to
14 ask, and I'm going to frame it in a slightly
15 different way.

16 So Carter question 13 is basically about
17 Dobbs. We know there is that, there is a leaked
18 draft in Dobbs, the real draft is not issued yet.

19 Let me tell y'all how I propose to talk to
20 the jury about Dobbs, and then y'all can pick me
21 apart at the end and tell me what I'm wrong on.

22 So this is what I plan on saying on the
23 Dobbs question. The Supreme Court recently did, or
24 did not -- we will choose our own adventure when it
25 comes time -- The Supreme Court recently did or did

1 not change its standard for whether states may
2 prohibit abortions. This case is not about whether
3 states may prohibit abortions. This question is
4 about whether the defendants violated Carter's
5 federal legal rights. The recent Supreme Court case
6 has no bearing on this case.

7 Do any of you feel so strongly about the
8 Supreme Court's recent case on abortion that you
9 wouldn't be able to put those personal views aside
10 and fairly apply the law to the facts of this case?

11 MR. GILLIAM: Sounds good.

12 THE COURT: We are trying to stay down the
13 middle.

14 Mr. Greenfield, you are nervous.
15 Understandably so.

16 MR. GREENFIELD: I'm hesitant about most
17 of this line of questioning. I think we are just
18 beelining for busting this jury pool and that is my
19 concern from an efficiency standpoint.

20 I just have concerns that that will happen
21 from that question.

22 THE COURT: So I get that concern. And
23 that is also mine, by the way. Which is why I'm
24 suggesting asking this and trying to ask it as
25 neutrally as possible.

1 I feel like any case on abortion is
2 touchy. And for some reason, we picked the
3 touchiest time ever in the history of modern western
4 civilization to try this case.

5 So I feel like it is discoverable
6 information for both sides, right? I feel it cuts
7 both ways. Some people could be so happy or so mad
8 at the opinion that they are going to take it out on
9 Carter, Southwest or the Union. And I don't feel
10 like that is fair to y'all.

11 So I do feel like these kinds of questions
12 are why I'm getting 50 instead of 25. I'm hoping we
13 get eight impartial people in this group. We are
14 bound to. Eight people, who can set their personal
15 views aside, if they have them, and maybe they won't
16 have them.

17 MR. McKEEBY: Can I ask a procedural
18 question?

19 THE COURT: Yes.

20 MR. McKEEBY: Are the permissible voir
21 dires going to be provided to the parties in a
22 document from the Court? Are we going to go by the
23 pretrial order?

24 THE COURT: So, yes. Permissible voir
25 dire, it is basically going to be a pretrial order,

1 as modified by this.

2 So if there are any questions I'm
3 striking, I'm going to ask y'all at the end to order
4 the transcript, so y'all have it, so I have it.

5 And so you can go by yours, for example, I
6 cut out sentence 2 of question 10. And so I trust
7 that your team will scratch through, you know, that
8 page of the pretrial order number 24.

9 If you don't -- so I will have my
10 marked-up copy. And if you don't, I will try to
11 stop you and go, wait a minute, you are reading some
12 marked-up sentence.

13 Okay. So I'm letting you ask Question 11.
14 Question 13, I will ask instead, in the way I
15 formulated it.

16 So Carter question 17, there is a second
17 sentence in here that, again, I will just flag. I
18 will let you ask it, it is about discussions with
19 family or friends that become argumentative. I am
20 nervous, but I will let you ask it but not follow
21 up.

22 MR. McKEEBY: Judge, this one kind of
23 raises a point I wanted to ask.

24 THE COURT: Certainly.

25 MR. McKEEBY: It kind of gets to your

1 question about state court.

2 The first sentence, this case involves
3 discrimination against a person based on their
4 religion without an accommodation being offered is
5 kind of state court voir dire argumentative, which I
6 would not expect in federal court.

7 Is that your -- are you okay with that?

8 THE COURT: Well -- and good point.

9 Can I have you flag that with a
10 disclaimer? We are arguing that this case is about,
11 right? Because your view of what the case is about
12 is not necessarily what the evidence will show it to
13 be.

14 So can you disclaim that? And if there
15 are any other ones like that, for anyone's side,
16 then we should disclaim.

17 Also, I handle -- if y'all ask like legal
18 questions, like here is the standard, I ask y'all to
19 disclaim and say, We think at the end of this case
20 Starr will tell you the law is X, instead of -- the
21 law is X. You are not the giver of the law, and I'm
22 not the giver of the law right now. I can't give it
23 until the end of the case.

24 So that disclaimer on a factual basis
25 makes sense.

1 MR. GREENFIELD: And, your Honor, how
2 would you like counsel, on either side, to handle
3 that sort of situation, if it is to come up?
4 Because I don't want stand up in front of the jury
5 pool and start hemming and hawing, if that starts
6 happening.

7 THE COURT: Yes. Just ask for a sidebar.
8 And I will try to patrol that as well.

9 We will get to this in just a second. It
10 is also a sensitive situation when another lawyer is
11 opening or closing, and so I ask for sidebars at the
12 end of that.

13 Now, if it is a question that they have
14 framed wrong, that is not how we talked about, you
15 can just stand up, I will see you and then I will
16 say, Hey, counsel can we huddle up right quick, and
17 then we will talk through it.

18 But, yes, if you've got a striking factual
19 assertion or any legal assertion, then you should
20 throw in a disclaimer.

21 We think that the facts will show X. We
22 think Starr will give you Y on the law.

23 And I will try to flag those as we go.
24 After I get through my concerns with their
25 questions, I will see if any of you have any

1 concerns and we'll make sure we are good on that set
2 of questions.

3 Okay. So, 17, we have the disclaimer we
4 are putting in.

5 MR. GILLIAM: We are going to strike
6 through the second sentence.

7 THE COURT: So, the second sentence of 17,
8 I'm allowing but no follow-ups. Heated arguments
9 with your family, you can tell us, but we are not
10 going to have a follow-up.

11 Okay. Eighteen is the next one I wanted
12 to talk through.

13 So I know we had talked about this in the
14 limine context, and there being at least some
15 exhibits that Mr. Greenfield thinks are in the trial
16 record that do make reference to politicians, like
17 Donald Trump and Hillary Clinton.

18 What I want to say here is that it is
19 that -- so I think this question has a place, right?
20 Like, if there an exhibit, the question has a place.

21 I think my concern is this second
22 sentence, which is asking about feelings on
23 political candidates, right? That gets back to more
24 secret ballot things.

25 But, you know, if they have been to a

1 protest or something like that, obviously that is
2 publicly associating them in a way that makes it
3 discoverable.

4 I think you can also ask, not whether your
5 view of a candidate will influence your vote, but I
6 think you can ask whether a view of the candidate
7 will influence your verdict, right? The verdict is
8 what does matter. You can absolutely ask that and
9 that is your third question. I think that hits the
10 nail on the head.

11 So it's the second sentence that I
12 disallowed. I think it is the third sentence that I
13 think is hyper-relevant that I will allow.

14 Those are the only ones that I wanted to
15 flag on Carter's questions.

16 Let me ask for Southwest, are there any
17 other ones beyond that disclaimer to question 17,
18 Mr. McKeeby, you want to flag for me?

19 MR. MCKEEBY: No.

20 THE COURT: Okay. Mr. Greenfield, are
21 there any other ones that you want to flag?

22 MR. GREENFIELD: Not at this point, your
23 Honor.

24 THE COURT: If anyone has any that they
25 have late-breaking thoughts on, send them over

1 email, you know, as soon as you can. Let's try to
2 keep these things adjudicated well on the front end
3 so people can prep their thoughts on voir dire.

4 Let's go ahead and take a break. I know
5 we haven't gotten to Local 556 or Southwest's
6 questions.

7 I don't have -- honestly, I have one out
8 of those, or two. But let's talk about after maybe
9 a 10-minute break. Then we will come back on the
10 record and finish up.

11 So court is in recess for 10 minutes. We
12 will see y'all at 10:40.

13 THE COURT SECURITY OFFICER: All rise.
14 (Recess.)

15 THE COURT SECURITY OFFICER: All rise.

16 THE COURT: Thank you. You can be seated.
17 Before we talk about the other proposed
18 voir dire questions, I wanted to flag one thing.

19 The Clerk's office told us that Chief
20 Judge Lynn is picking a criminal jury the morning of
21 July 5th in that same jury assembly room. So they
22 are flagging for us, they are not sure if she will
23 be finished in time for us to use the room at 1:00.

24 Kevin is going to look at an alternate
25 room, the Red River room, to see if that is a viable

1 space for us to run with or we just wait until Chief
2 Judge Lynn is done.

3 We are getting creative and thinking
4 through other options, too. We will pick our jury
5 that day, we just don't know what room we will pick
6 it in.

7 Kevin will scout out a viable alternative
8 in case that room is still booked at 1:00.

9 So we covered Carter's questions on
10 processed voir dire.

11 On Local 556's, I didn't have any that
12 jumped out at me, but I want to ask if anyone else
13 has any concerns about Local 556's questions.

14 Any questions with Local 556?

15 MR. McKEEBY: Not from Southwest.

16 MR. GILLIAM: No.

17 THE COURT: Okay. Then let's go to
18 Southwest's questions.

19 I think I just had two that I wanted to
20 talk about.

21 Questions 1 and 20 were the ones I
22 flagged.

23 Well, I may have the wrong one. Instead
24 of 1, I should have said 5?

25 Five is, Have you donated to any nonprofit

1 or religious organizations; if so, which ones?

2 So the nonprofit or religious organization
3 question is one that to me gets more like secret
4 ballot for voting.

5 Where the Fifth Circuit has the drawn the
6 line on affiliation versus overt public activity, I
7 think the problem here is with regard to religion,
8 it is the tenet of many religions to donate back to
9 the religious institution.

10 So I think donation can look a lot more
11 like affiliation. And that might even be true for
12 secular non-profits.

13 The Supreme Court case from 2020 on
14 California's law compelling nonprofits to disclose
15 their donors list. Americans for Prosperity
16 Foundation versus Bonta.

17 I know it was a different legal framework
18 that the Court was analyzing but I think it has a
19 rough analogy here, when we are telling people who
20 they've given money to and that is a
21 quintessentially private context.

22 I think there is an expectation of privacy
23 that we don't pierce in even voir dire absent a
24 compelling need.

25 I think there is not a compelling need if

1 we can get to someone's overt activities, right?

2 And that's what the Fifth Circuit has said in other
3 religious question cases for voir dire.

4 If someone is going to a rally or
5 something like that, then they have taken a step
6 beyond writing a check to their church that only
7 they know about it, and are now going to this rally
8 on this issue that their church has put together.

9 And so I think that is fine. It is almost
10 like a Fourth Amendment search and seizure kind of
11 feel to it from these cases where you might have a
12 reasonable expectation of privacy in your home.

13 But once you get out to the rally,
14 everything you are doing is public, so we can all
15 see about it but...

16 So question 5, I don't think I can allow
17 5, because I think it does get to that expectation
18 of privacy in donating to a nonprofit or affiliating
19 with a religion that I think is a bridge too far for
20 me under Fifth Circuit and Supreme Court precedents.

21 Question 20, does anyone here have strong
22 opinions about the recently-leaked draft of Dobbs?

23 I think that is the one where I said I
24 should take a bullet and handle that one. So I'll
25 do that you y'all don't need to ask 20, just like

1 Carter doesn't need to ask her formulation of the
2 Dobbs question.

3 Okay. Does anyone else have concerns on
4 Southwest's proposed questions?

5 I'm thumbing through them one last time to
6 see. I don't have any others.

7 Last call for Southwest's questions on
8 proposed voir dire.

9 MR. GILLIAM: Plaintiff doesn't have any.

10 THE COURT: Okay.

11 That wraps up the voir dire questions.

12 Any other questions on voir dire? I have
13 one more thing on voir dire unless someone else on
14 questions.

15 The one thing I have in the Fifth Circuit
16 pattern instructions, they require me to give sort
17 of a thumbnail sketch about every case in my
18 introductions.

19 So I basically track my thumbnail sketch
20 with y'all's stipulations.

21 I'm going to read my plan for it now, and
22 stop me at the end, if you have any -- if you have
23 any concerns about it.

24 Okay. This is not a criminal case. It is
25 a civil case. The plaintiff, the person who filed

1 this lawsuit, is Charlene Carter. She was a
2 Southwest Airlines flight attendant. All Southwest
3 Airlines flight attendants are represented by a
4 union called Transportation Workers Union Local 556.

5 Any issues in that paragraph?

6 MR. GILLIAM: None from plaintiff.

7 THE COURT: Okay. We have got three more
8 paragraphs.

9 So the second one is this: After being a
10 member of the Union for many years, Carter resigned
11 from Union membership and became what is called a
12 fee paying non-member objector. Carter expressed
13 her objections to the Union and Union leadership in
14 several ways, including by sending messages, making
15 posts on social media, and participating in an
16 effort to recall Union leadership.

17 Any objections to that paragraph?

18 MR. GILLIAM: No, your Honor.

19 MR. MCKEEBY: No, your Honor.

20 THE COURT: Okay.

21 The third paragraph is: Carter is a
22 Christian who believes that abortion is the taking
23 of a human life, contrary to the teachings of the
24 Bible and the will of God. In January 2017, certain
25 Southwest Airlines flight attendants, who were

1 members of the Union, attended the Women's March in
2 Washington, DC. Later, Carter sent private Facebook
3 messages to the Union president. Those messages
4 involved the Union's activities at the Women's March
5 and the topic of abortion.

6 The Union president reported Carter's
7 messages to Southwest. Southwest fired Carter in
8 March 2017.

9 MR. GREENFIELD: I think -- your Honor, if
10 I may, your Honor.

11 THE COURT: You may.

12 MR. GREENFIELD: I believe that limits to
13 a degree the content of the messages that were sent.
14 I think that is a partial recitation of what was
15 included in those messages. But it also, we would
16 contend, contain threats of violence against
17 President Stone.

18 THE COURT: So you have got two components
19 there. One, those weren't all the messages. So
20 temporally before the March, there were other
21 messages.

22 MR. GREENFIELD: There was other messages
23 before the March. And then after the March, in the
24 ones that you are discussing right now, there is
25 more included in those messages than just objecting

1 to the Union expenditures, Union activity, et
2 cetera.

3 THE COURT: Yes. Well, how can I say that
4 in a non-characterizing kind of way? Is the
5 problem, right? I can't call it a threat, as a
6 judge.

7 MR. GREENFIELD: Right.

8 THE COURT: That is up to the jury to
9 determine if it is a threat.

10 MR. GREENFIELD: Potentially, a way to do
11 it fairly to all sides would be to -- and I'm just
12 talking out loud here -- reading the message itself?
13 Potentially? Just so there is no discrepancy as to
14 what actually was said. As is, I think it -- it is
15 misleading.

16 THE COURT: Any thoughts from anyone else
17 on how to handle this?

18 MR. McKEEBY: I have a different concern,
19 not on that.

20 THE COURT: Understood.

21 Well, let me say just first on timing, you
22 make a good point that there were messages before
23 the March as well.

24 And so I can change it to say, Carter sent
25 private Facebook messages to the Union president

1 before and after the March. Those messages after
2 the March involved the Union's activities at the
3 Women's March and the topic of abortion.

4 So I still need to think through how to
5 handle that. I mean, I don't like reading specific
6 evidence here because I think it highlights
7 evidence. So I don't know if there is another way
8 to do it.

9 I can keep thinking through it. Y'all can
10 keep thinking through it and communicate by email to
11 the Court, if there is a better way to do it.

12 What I will do after this is over, I will
13 have Mr. Frye email y'all out my version of the
14 thumbnail sketch of the case, just so you can see
15 the latest of where I'm at. If you have suggestions
16 on marking it up, you can send those back over
17 email.

18 Yeah, you have a different concern?

19 MR. McKEEBY: Yes.

20 The way it read makes it sound like the
21 only reason that the flight attendants went to
22 Washington was to attend the Women's March, when, in
23 fact, there was also a Union -- excuse me, a Women's
24 Committee Meeting that was kind of official Union
25 business. And so I think there should be some

1 modification of the language to reflect that.

2 THE COURT: All right. I will take a stab
3 at that and I will show y'all where my ultimate
4 language ends up later on today. Okay?

5 Let me ask Carter, any concerns from
6 Carter's team on where that paragraph is now?

7 MR. GILLIAM: The one about the Women's
8 March?

9 THE COURT: Yes.

10 MR. GILLIAM: No, not the way it is now.

11 THE COURT: Understood.

12 And anyone can flag for me concerns over
13 email at any point on what language I'm coming up
14 with.

15 Okay. The last paragraph is, Carter has
16 sued Southwest and the Union for purported
17 violations of federal laws, including laws that
18 protect speech and religion.

19 Southwest and the Union deny any
20 wrongdoing. That is why you are here.

21 I tried to keep it short and not get into
22 RLA versus Title VII and all of that.

23 Any questions or concerns on that last
24 paragraph?

25

1 MR. GILLIAM: No objections from the
2 plaintiff.

3 MR. McKEEBY: I have a concern about the
4 reference to speech as opposed to opposition of
5 Union practices.

6 I don't think that is accurate to say that
7 the RLA protects speech per se.

8 THE COURT: So your argument would be laws
9 that protect opposition of Union practices and
10 religion?

11 MR. McKEEBY: Yes.

12 THE COURT: I will take a look at that.

13 MR. GREENFIELD: I would just mirror the
14 same concern, your Honor.

15 MR. GILLIAM: And for what it is worth,
16 your Honor, we did argue why RLA 152 third and
17 fourth do embrace speech as much as every other
18 activity.

19 Protections of association are actually
20 extended, too. I think we cited Bonda as part of
21 that.

22 THE COURT: All right. I will take a
23 look.

24 So we have talked about the time clock.
25 Let me just say for your time clock

1 expectations, I try to have my juries here in the
2 box 9 to 5, as the general rule. And an hour break
3 for lunch that we try to take around noon.

4 We basically have one morning break that
5 happens midmorning, which is around 10:30. We try
6 to keep our breaks 10 minutes, so we keep the trial
7 moving.

8 We try to take two 10-minute breaks in the
9 afternoon. The first one is usually around 2:30;
10 the second one is usually around 3:45.

11 I say that because if you have a witness
12 on the stand, we have two options of handling this,
13 as you approach one of those times, whether it is
14 10:30, noon, 2:30, 3:45, 5, as you approach one of
15 those times, I will give you some leeway, you know,
16 5 to 10 minutes to blow by that if you're getting to
17 good stopping point with a witness or finishing with
18 a witness.

19 If you just keep plowing through it and
20 ignoring the clock, I am going to have to step in at
21 the 5 or 10-minute mark and protect the jury's right
22 to go potty.

23 So I would rather let you call the break,
24 instead of me. But if you don't call it, I will.

25 Does that make sense?

1 If you're wondering if you can get to a
2 break, if you want to call a sidebar to talk about
3 it, we can plow through it for a few extra minutes,
4 that is fine, too.

5 That is on me, if you are trying to be
6 efficient with the jury's time, then that sidebar
7 time won't count against you.

8 But our jurors will have kids or things
9 after 5:00 that they have got to attend to. So if
10 we go to 5 or 5:10, I usually don't hear complaints
11 from the jurors. if we are blowing through to 5:30,
12 and didn't give them a 24-hour heads up, so that
13 they can make preparations, then things get dicey.

14 So 5:10, I don't have a problem with. If
15 we go beyond that, I'm just going to cut you off for
16 their sake.

17 So based on that, if we are rigid with our
18 schedule and keep our break time to a minimum and
19 our lunchtime to a minimum, we can usually get about
20 six hours on the clock a day, right?

21 In theory, it is seven hours, but then
22 when you take out lunch, then you take out the
23 breaks and the inevitable time on changing witnesses
24 and things like that, that is -- that is time that
25 really doesn't count on the clock.

1 We have about six hours a day, if we have
2 12, six and six, it is basically four days of the
3 evidence phase of the trial. That time does count,
4 closing argument, which goes past the evidence
5 phase. It will take more than four days. So if we
6 pick a jury on a Tuesday, we are getting close to at
7 the end of the day Monday or the beginning of the
8 day on Tuesday the next week. But we will take some
9 time out of that to do a charge conference and hear
10 any directed verdict motions and then read the
11 charge to the jury. Obviously, that doesn't count
12 against your time. The jury will probably get the
13 case on Tuesday.

14 Okay. Any questions on the time clock?

15 Okay. Let's talk about exhibit
16 objections.

17 I'm not going to go through specific
18 exhibits here. I know y'all will give me a new
19 exhibit list. And then the file sharing version, I
20 can't remember who did it, I think counsel for
21 Southwest did it. That worked great last time. So
22 if you have got any new exhibits, or if you just
23 want to dump, we changed some pages, it is just a
24 new, clean copy. Either way, that is fine. We
25 could swap out specific exhibits or do a dump of the

1 new ones.

2 As far as the exhibit objection protocol,
3 I have got your status report, where you have got
4 your exhibit objection and response.

5 Assuming that attempted exhibit list
6 doesn't change any of that, I will tell you how I
7 work through those.

8 I try to minimize my sidebar time by
9 working through as many of those exhibit objections
10 outside the jury's hearing as possible.

11 What we do is, the night before evidence
12 will happen the next day, at 6:00, whoever is
13 putting on evidence the next day, sends an email out
14 that says, Here are the witnesses we plan on putting
15 on tomorrow, and here are the exhibits we plan on
16 getting to tomorrow.

17 You don't have to tell me the order of
18 your witnesses. You don't have to tell me the order
19 of the exhibits or what exhibits go with what
20 witnesses. I just want to know for planning
21 purposes what witnesses do you think we will hear
22 from, what exhibits do you think that you will try
23 to put into evidence.

24 That is the 6 p.m. email from someone who
25 is putting on evidence the next day.

1 At 8 p.m., I like to see a response from
2 the other side that says, Hey, we already let you
3 know our objections to those exhibits in the status
4 report, here are the ones we are still maintaining,
5 right?

6 So you propose to put on 20 exhibits
7 tomorrow. We file objections to 10. We are still
8 maintaining those 10. If you want to give me even
9 more detail about your objection than you gave in
10 the status report, you can do that.

11 You can talk to me like we are at a
12 sidebar, right? We only speak in code when the jury
13 can hear us. At a sidebar, you can speak normally.
14 You don't have to say hearsay or 806. You can talk
15 to me normally.

16 You can do that in the email as well. And
17 y'all did in the status report, and I appreciate
18 that. You don't have to say anything extra beyond
19 what you said in the status report. I just need to
20 know you are still maintaining your objections.

21 What I do is I stay up late a night, look
22 at the exhibits, look at the objections, and then
23 the next morning, we come in at 8:30 and we go
24 through one at a time. And y'all can give me some
25 more argument, just like we would be at a sidebar.

1 You can spend even more time than we would at a
2 sidebar, make sure we get our exhibit rulings right.

3 What we do is then I rule on that
4 objection. And then when that exhibit is offered
5 into evidence, later on when the jury shows up, at
6 9:30, they are there. We have already ruled on the
7 objections to Exhibit 1. And then Carter says,
8 Offer Exhibit 1 into evidence. And then I will look
9 to y'all and y'all can say same objections. And
10 that relates back to our status report, where y'all
11 filed them in writing, and our discussion from that
12 morning on the record, where y'all made your more
13 in-depth argument.

14 And I will say same ruling as this
15 morning, I'm overruling the objections. It is
16 admitted and you can publish, right?

17 And then Kevin and I will unmute the jury
18 monitors and they can see the exhibit.

19 We handle exhibit objections that way --
20 well, I only do this in trials where the lawyers are
21 good at cooperating with each other. In trials
22 where the lawyers are unprofessional, I save all of
23 that for trial. And I say, if you want to object,
24 you have got to come over here to a sidebar. You
25 can speak in code in front of the jury, objection,

1 hearsay or objection, 806.

2 But if you want to explain your objection,
3 you have got to come over here to sidebar. And the
4 loser of the sidebar gets the time tagged against
5 them.

6 That is my process for unprofessional
7 lawyers. Because they just like cutting each up and
8 incentivize them not to cut each other up because
9 that wastes the jury time.

10 For y'all, I think y'all are professional
11 enough to where I want to reward y'all. I want to
12 get here early and make sure y'all can use your time
13 efficiently, not at sidebar, but instead walking
14 through an exhibit with the jury.

15 So questions on that protocol?

16 MR. McKEEBY: Yes. I think we alluded to
17 this earlier. We are planning on conferring about
18 perhaps streamlining the exhibits which might result
19 in effectively a new list.

20 Is that going to create problems with
21 utilizing the joint status report if we have new
22 numbers or how do you want to --

23 THE COURT: How about this? Can y'all
24 give me a new snippet from the status report that
25 has your objections in it? Does that make sense?

1 This exhibit may move to this number, it may have a
2 few pages redacted out, cut out. That is all fine
3 by me.

4 My main concern is I have the objections
5 and the responses from the status report with the
6 same numbers you are now going to proceed with on
7 your exhibit list.

8 What I don't want y'all to do is reopen
9 and rehash all new exhibit objections. But I trust,
10 again, y'all are professionals, so I trust that, you
11 know, if anyone is doing that, you will call it to
12 my attention.

13 But thank you for flagging that. And,
14 again, I'm not going to turn to these until -- what
15 is it? Tuesday night at 6:00. I will get Carter's
16 first email that says, here are our witnesses and
17 exhibits for Wednesday. And at 8 p.m., I will get
18 y'all's email. It is not like I'm reviewing those
19 right now. I will review those nightly before
20 trial.

21 So now y'all can have a document and make
22 sure that it is correct and it won't steamroll any
23 of my work.

24 Yes, that is the process, is, you know,
25 obviously Tuesday night, we will have the Wednesday

1 disclosures by email. Wednesday, here is the
2 objections we are maintaining from both opposing
3 counsel.

4 The only awkwardness comes to when there
5 is a day that Carter might hand the baton over. If
6 we start getting to that point, I will flag it and
7 say, Okay, y'all are going to need to, tonight, say
8 if we get to you tomorrow, who you want to put on
9 witness- and exhibit-wise.

10 How I handle protocol with
11 multi-defendants is, my default is to go by the
12 order of the complaint, right?

13 So if they hand the baton over, they rest.
14 Then I'm going to say Southwest can call its first
15 witness, unless y'all tell me otherwise. I'm
16 amenable to y'all having some sort of agreement,
17 actually the Union is going to put on witnesses
18 first, or you are going to intermingle for witness
19 scheduling reasons. That is fine by me.

20 But I will look over at you, I will give
21 you the default that Southwest is next. Y'all can
22 tell me if you have an agreement to override that
23 default.

24 That is also true for cross-examining one
25 of Carter's witnesses. I will look to Southwest

1 first, but if y'all agree that the Union should go
2 first, that is fine by me. I don't care.

3 Any questions on that sort of protocol?

4 I will try to keep an eye on the clock and
5 make sure I know the day I think we are handing the
6 baton over, so that that night before we know that
7 someone from the defense needs to designate
8 witnesses and exhibits to fill up part of the day.

9 Okay. I'm going to flag one thing right
10 quick, which is, I don't think it is going to be an
11 issue for y'all because I think y'all are agreeable
12 people.

13 Not every email is a business record. So
14 for people who vehemently object to everyone else's
15 exhibits, this becomes -- it sounds like y'all are
16 probably going to be agreeable coming in and not
17 hashing through objections too much.

18 But not every email, not every piece of an
19 email is a business record exception.

20 I'm going to read off a case citation that
21 is very enlightening from Eastern District of
22 Louisiana that maps all of this out.

23 It is In Re: Oil Spill. It's a Deep
24 Water Horizon case, the MDL. And the citation is
25 2012 WestLaw 85447. And the pinpoint is at Star 3,

1 where they walk through the five elements you've got
2 to prove to really get in the full email in the
3 business record exception.

4 No one knows it. And I expect that y'all
5 have professional agreements to not just hash
6 through each other's exhibits. It seems like that
7 is the case. I hope that is the case for y'all's
8 sake because it is much better for you and the jury,
9 if that is true.

10 Okay. Any questions on exhibit protocol?

11 Let me flag one more thing for y'all.

12 I don't send exhibits back to the jury
13 room unless they were admitted. So just because
14 y'all have agreed that there are no foundation or
15 authenticity objections doesn't mean that that stack
16 of exhibits will go back to the jury room.

17 Even if there are no additional
18 objections, right?

19 You still have a witness on the stand.
20 You put the exhibit in front of them, offer for its
21 admission. It is only that subset that I admit into
22 evidence that goes back to the jury room.
23 Otherwise, it becomes a trial by document back in
24 the jury room of documents that they have never seen
25 before, instead of being a trial by the spoken word.

1 And courtrooms, since the dawn of man, has always
2 been where the spoken word is king.

3 So I will still let you have a streamline
4 process and preadmit things for foundation or
5 authenticity reasons, that will speed things up.
6 But it doesn't mean all 100 exhibits go back to the
7 jury room.

8 Any questions on that?

9 Okay. So I have nothing further on
10 exhibits.

11 Witnesses is next on my list to talk
12 about.

13 So I see the listing of witness issues and
14 the status report at Doc 2060. I think there are
15 maybe three groups we should talk about in group
16 fashion, and relatedly, at the end of this
17 discussion, we will talk about depo designations and
18 whether our witnesses are unavailable or whether
19 they will be here.

20 But let's talk about these witness issues
21 first.

22 So I think the first group is Southwest
23 and the Union objecting to Carter's witnesses,
24 Rutherford, Burdine, Conlon, Kleburne, and Hudson.

25 So I read the objections from the

1 Defendants as being that these folks were not named
2 in the initial disclosures.

3 And Carter's response is that they were
4 named by Southwest's corporate rep during that depo
5 and that Southwest isn't prejudiced by Southwest not
6 naming them in its disclosures.

7 Anything Carter to add to that?

8 MR. GILLIAM: I think as we noted, but
9 also that many of these were people we couldn't have
10 known were involved in the investigation.

11 So when we were doing the initial
12 disclosures, the onus was really on the Union and
13 Southwest to disclose those people's identities to
14 us, in addition to everything else.

15 THE COURT: Understood.

16 Can I get a take from Southwest or the
17 Union on this group of witnesses?

18 MR. McKEEBY: Yes, you can.

19 In response to that point, the deposition
20 of Mike Sims occurred on November 2nd of 2020. If
21 they wanted to -- plaintiff wanted to amend her
22 disclosures to identify these witnesses, she had
23 every opportunity to do so.

24 So to say that it was Southwest or the
25 Union's, frankly, obligation to identify witnesses,

1 it is just not -- I think contrary to the language
2 and spirit of the rule.

3 THE COURT: So but why would they have to
4 identify witnesses that came up with a Sims depo
5 that were Southwest employees?

6 MR. McKEEBY: Because the disclosures are
7 designed to tell us who they intend to call as
8 witnesses in this case.

9 THE COURT: All right.

10 What is the Union's take? And then I will
11 hear the final word from Carter.

12 MR. GREENFIELD: We mirror the position of
13 Southwest.

14 THE COURT: Okay.

15 Carter, what is the final position on this
16 group of witnesses?

17 MR. GILLIAM: I'm sorry. What is our
18 position?

19 THE COURT: Yes.

20 Do you have anything to add?

21 Particularly, I'm trying to get at the
22 initial disclosure obligations, right? I know your
23 argument is that they knew about them, their
24 argument is that the list is not so much about who
25 you know about, but who you are wanting to go

1 depose.

2 MR. GILLIAM: I don't understand Rule 26
3 to at least provide an obligation to disclose the
4 names under -- under (a)(1)A -- what is it? Roman
5 numeral 1 to alert them to call at trial.

6 We are giving them initial disclosures of
7 who we believe has knowledge of the case.

8 THE COURT: Yes. So I guess here is my
9 thought on this. I get both different views of Rule
10 26.

11 In this context, given that the
12 information was more specifically in Southwest's
13 hands, I think that inherently that would more come
14 up with Southwest's disclosures, initial
15 disclosures, and then we'd hear if they are going to
16 depose them.

17 How we sit here today, I would be inclined
18 to let them call this group of witnesses at trial.
19 The awkwardness is they haven't been deposed. I can
20 see both sides wanting to depose them, or not.

21 And so my question is, do you want to try
22 to depose them between now and trial?

23 I'm happy to talk about that. And I have
24 ordered that in past cases, if we are sitting here
25 with an issue of not hearing witness testimony

1 before we come into trial. I'm happy to hear if
2 anyone wants to have a quick depo of a witness.

3 MR. GILLIAM: Potentially, with a couple
4 of them.

5 I think that that might be -- I guess -- I
6 guess my initial reaction is potentially. I hate to
7 delay the trial or the trial proceedings. That is
8 my concern.

9 THE COURT: And I would say, I'm not going
10 to, right?

11 So I have had cases where I had the normal
12 one week on Monday, you have the pretrial, the
13 following Monday you have a trial. And some short
14 depositions happen by Zoom Thursday and Friday. And then
15 at trial no one was flying blind because everyone
16 had talked to them.

17 That is kind of the situation I'm amenable
18 to here. And I would shorten the six-hour limit,
19 given that there are scheduling issues. I would say
20 maybe a two-hour limit. You don't need six hours to
21 have the beginning of the case, feel out everything
22 a person knows. This is the end of the case. You
23 pretty know what you are up against, and I wouldn't
24 inconvenient anybody for six hours. But for two
25 over Zoom, sure.

1 MR. GILLIAM: And with your -- with your
2 advisement that it would not delay trial, then I
3 would say, yes, we would want to depose.

4 THE COURT: Okay. Let me hear from
5 Southwest. I'm not going to order this just yet. I
6 want to hear their concerns.

7 MR. McKEEBY: I mean, the concern is just
8 a matter of timing, given I don't know how many
9 depositions we are talking about.

10 I mean, we are talking about a lot of
11 people. I just don't think it is practical to
12 require us to produce a half dozen witnesses for
13 deposition when we are trying to gear up and
14 coordinate with respect to an amended exhibit list
15 and get ready for trial.

16 I think that is too much of a burden given
17 that they had the opportunity to take these
18 depositions during the normal course. I don't think
19 that is fair, and we would object to it on that
20 ground.

21 THE COURT: Do you recall what date Sims'
22 deposition was? I can't remember it. I wasn't
23 aware of it.

24 MR. McKEEBY: November 2nd, 2020.

25 THE COURT: November 2nd.

1 And when was the discovery cutoff in this
2 case?

3 MR. GILLIAM: The initial discovery
4 cutoff, when that deposition was taken, was
5 November 30th of 2020.

6 And you may recall, your Honor, that we
7 sought to extend the discovery deadlines for various
8 reasons. And then that was granted, May 5th,
9 2021 -- I believe around the beginning of May. I
10 may be wrong on the actual day.

11 And that was extended, I want to say, late
12 July 2021, maybe early August 2021.

13 THE COURT: So can I ask why there weren't
14 any depo notices after the extension of the fact
15 discovery cutoff?

16 MR. GILLIAM: I think that we were trying
17 to conduct some initial discovery and with some of
18 the other discovery issues, we continued to face
19 with getting into some of the initial discovery, we
20 just ran out of time. We didn't have time to
21 conduct additional depositions.

22 THE COURT: Okay.

23 So here what I plan on doing on this one,
24 I'm planning on allowing depositions. I'm going to limit
25 them to one hour.

1 I think there is exposure on both sides
2 here. I think Southwest could have named these
3 people in the amended initial disclosures.

4 I think y'all also had some knowledge of
5 them, right? So there is risk on both sides. At
6 the end of the day, if I do plan on allowing them to
7 be called for trial, I think it is fairest to both
8 sides to be able to have them sit for a depo.

9 I will allow it by Zoom. I will allow
10 everyone to be in different rooms, right? I don't
11 want to inconvenience people's travel schedules. So
12 one hour max for the deposition by a lawyer from
13 Carter on any of these witnesses.

14 If there are scheduling issues that are
15 coming up, let me know, and I will figure out if
16 there is any -- any changes we need to make.

17 I hate doing this, but sometimes there are
18 times where you can have someone out sitting in the
19 hall, right? The person can only come in for their
20 trial appearance and there can be a person out
21 sitting in the hall. I don't like doing that, but
22 sometimes it is better than nothing.

23 We will figure out what kind of
24 accommodations we need to make sure people's
25 schedules don't need to change.

1 MR. McKEEBY: Your Honor, I already know
2 that there are major scheduling issues, at least
3 with respect to trial attendance with some of these
4 witnesses. We didn't understand that they were
5 going to be part of the case.

6 I have a witness that is going to be Kuwai
7 from July 1st to July 8th. Another witness who
8 going to be in Jamaica from July 1st through
9 July 8th.

10 And so another practical concern is that,
11 but also, you know, in terms of trial, I mean, for
12 Southwest -- for folks that Southwest has control
13 over, then certainly we will work with them in terms
14 of coordinating a time to take one-hour depositions,
15 hopefully not too many.

16 But in terms of trial attendance, I have
17 those concerns. And also, I got -- yesterday a
18 process server showed up at my office and served me
19 with 15 subpoenas for these folks, many of whom are
20 not Southwest employees. Many of whom are well
21 outside of the 100-mile limitation for subpoenas.

22 I don't, frankly, know what to do with
23 these trial subpoenas other than perhaps file a
24 motion to quash. But I -- I didn't -- I'm not
25 authorized to accept service with respect to trial

1 subpoenas.

2 THE COURT: Can I pause that right quick?

3 So I have got two other groups of
4 witnesses who had these witness issues from the
5 status report.

6 And then I think we need to talk about
7 availability of witnesses and trial subpoenas as
8 perhaps a discrete issue.

9 But so bucket one, I just want to make it
10 clear, like, Southwest do everything you can to make
11 sure that these five -- this is Rutherford, Burdine,
12 Conlan, Kleburne, Hudson, have an hour max
13 deposition. It can be by Zoom from anywhere before
14 trial starts.

15 If that becomes an issue, then we can talk
16 about, do we need to allow it to happen after trial
17 starts.

18 Bucket two of folks was to -- I guess it
19 is Southwest's objections to Carter witnesses,
20 Lacore and Shaffer.

21 Southwest's objection is they were copied
22 on investigation emails and they lack relevant
23 information.

24 So what I will say here is, I don't think
25 that these witnesses need to sit for a depo, right,

1 if you are telling me that they lack relevant
2 knowledge.

3 What I'm going to do is, though, I don't
4 sideline fact witnesses in their entirety.

5 I could on an expert, right? If an expert
6 has something that is so critically defective under
7 the Daubert standard, that I'm just going to
8 sideline them.

9 But if it is a fact witness, the fact
10 witness can show up and say what their name is. So
11 I don't sideline fact witnesses on that basis.

12 But if they lack relevant information
13 beyond that, then question two may have an
14 objection, right? Or it may not be an objection, I
15 don't know about that, right?

16 This is where I put the time clock in
17 place because if they want to call that witness and
18 put them on the stand, when you said they lack
19 relevant information, that is a big gamble. Because
20 if the witness says, Hey, I don't have anything and
21 they have burned some of their time, that is also an
22 inefficiency that makes me not want to extend their
23 time, if they run out of it and ask for more.

24 So how it stands now is, I wouldn't have
25 these folks sit for a depo, but I wouldn't exclude

1 them from trial. And I think that puts the onus
2 back on Carter to make sure they are calling people
3 that have relevant knowledge.

4 Questions about how I plan on handling
5 this bucket with Shaffer and Lacore?

6 MR. McKEEBY: One observation, I guess.

7 Shaffer is one of the people who is not a
8 Southwest employee, so I don't have any control over
9 her.

10 THE COURT: Yes.

11 Let's give that bucket 4. So bucket 4 is
12 availability, and there is plenty to talk about
13 there.

14 Bucket 3, Carter objections to defense
15 witnesses, Sims, and particular questions on the
16 scope of Carter.

17 So on Sims, I guess Carter is objecting to
18 the last chance agreement, offer to reinstate her
19 employment. The step two grievance hearing and the
20 arbitration hearing. The basis would be lack of
21 relevance, prejudice, inadmissible settlement offer.

22 So in my written order, I denied a limine
23 point on excluding testimony and evidence about the
24 last chance agreement. I think 408, not everything
25 stays out. It has got to have another purpose.

1 I think I spelled that out in the written
2 order yesterday.

3 But, of course, that was on the last
4 chance agreement. This argument is broader, it
5 includes step two grievance hearing, the arbitration
6 hearing.

7 So I will say some of this involves
8 exhibit issues, right? And exhibit objections. And
9 then I'm still digging into arbitration, whether or
10 not that would come in, the arbiter's finding would
11 come in as an exhibit or not.

12 So some of these things I can't get until
13 we have our emails the night before and our
14 discussions at 8:30.

15 Is there anything else that Carter wants
16 to argue on this at this point in time knowing that
17 I may be a little stymied in not being able to rule
18 clearly, unless it is in the context of an exhibit?

19 MR. GILLIAM: I think that it's there,
20 too, but also, I think this falls into the category
21 of testimony from Mr. Sims regarding
22 post-termination proceedings, not specifically the
23 last chance agreement itself.

24 But to the extent that it involves, say,
25 the Union's representation, Mike Sims was the VP for

1 Southwest and In Flight, but he was post-termination
2 proceedings.

3 So that is the other thing to make a
4 slight distinction with -- to contrast it from the
5 last chance agreement itself.

6 THE COURT: Understood.

7 Then let me ask, can I get some flavor
8 from Southwest on what the post-termination
9 proceedings were?

10 I guess I'm trying to figure out, like,
11 what they were, what is their relevance.

12 MR. McKEEBY: I don't know. I'm not sure
13 what he's talking about.

14 THE COURT: Can I ask for a clarification,
15 then?

16 MR. GILLIAM: Sure.

17 That is the grievance the Union filed and
18 that Sims reviewed after Charlene Carter was
19 terminated.

20 MR. McKEEBY: Okay. So that is the step
21 two grievance?

22 MR. GILLIAM: The step two grievance
23 proceeding.

24 MR. McKEEBY: That, again, was another
25 layer of the process in which Southwest reviewed and

1 assessed the decision whether it was the right
2 decision.

3 Mike Sims sits over that process as part
4 of the Collective Bargaining Agreement, and rendered
5 the decision, after which is when he presented
6 Carter with the last chance agreement.

7 It is part of the process. It is
8 fundamental to the fairness associated with the
9 process, and so there is no reason to limit that
10 evidence.

11 MR. GREENFIELD: And, your Honor, if I
12 may, as well, I think Mr. Sims' testimony in that
13 regard is also crucial to the Union's claims of duty
14 of fair representation.

15 His role in that and what influence the
16 Union may have had over Southwest in Carter's
17 ultimate termination, et cetera, I think that is all
18 crucial to our showing in this case.

19 THE COURT: Understood.

20 Then I will just stick to my prior
21 rational on limine point where I said this is part
22 of the story that Southwest and the Union can
23 continue to tell.

24 Again, relevance, if you are going to
25 spend all your time on it, that may be unwise. But

1 I think -- I can't let you carve it out. I think it
2 has some relevance to the claims.

3 Understood Carter was also objecting to
4 testifying on the Union's representation during the
5 grievance process.

6 The argument is that that is irrelevant
7 and prejudicial. I think based on my prior rulings,
8 I think I need to allow this to come in, right? It
9 is the completion of the story that needs to be told
10 on behalf of Southwest and the Union. So I don't
11 think I can make it off limits for Carter when I'm
12 not making it off limits for other witnesses.

13 Okay. So now, on witnesses, what we need
14 to do is talk about availability of witnesses,
15 right?

16 So I have that filing that y'all made last
17 night on witness availability. So obviously --
18 well, and that is Carter's filing.

19 And I know Carter had raised specific
20 witnesses that were Emlet, Guttierrez, Parker and
21 Schneider. You may have more you want to raise, but
22 this is sort of the question that I'm working
23 through is, if this is a situation where Southwest
24 still employs them, then even if they are beyond 100
25 miles, they are still under the control of

1 Southwest, so we need to get them here.

2 If it is a scheduling issue -- and I'm
3 trying to think what the last day of trial will be.

4 I will say that I'm easy to please when it
5 comes to witness scheduling. If there is a final
6 day we think y'all are putting on evidence and some
7 of your witnesses will only be back in Texas for
8 that final day, that is fine by me.

9 I don't care that you may have witnesses
10 that bookend to the Union's witnesses, if that makes
11 sense. That is not a problem in my mind at all.

12 MR. McKEEBY: I almost feel like we need
13 to go over each witness individually. The ones that
14 you have identified, Guttierrez and Imlet are no
15 longer Southwest employees. Both have indicated
16 that they will cooperate and appear.

17 But to say that I have control over them
18 is another matter.

19 Mr. Schneider --

20 THE COURT: Can we take them one at a
21 time?

22 Let's do Guttierrez first. Guttierrez is a
23 former employee?

24 MR. McKEEBY: Correct.

25 THE COURT: And yeah, you got to my

1 question, Mr. McKeeby, which is, there are plenty of
2 formers who will still cooperate.

3 And so that was not my question, but your
4 form is, will they be willing to. If they won't,
5 then we need to go through a separate analysis. If
6 they will, I'm fine accommodating schedules as much
7 as I can, which includes -- and let me just be super
8 clear on this, if only you are calling that witness,
9 who is out of the U.S. or former employee, and they
10 can get there for a last day of trial, in my view
11 what I can do is allow that witness to go out of
12 turn and you can rest conditionally.

13 For example, you rest, but we have two
14 other witnesses who were all playing nice and
15 accommodating their schedules.

16 And if when we do that, then anytime there
17 is a directed verdict motion, I take it up at the
18 end, once you've met the condition and gotten in
19 your final witness.

20 But I view that notion where the
21 plaintiff's evidence got in everything they wanted
22 to, but I sidelined the defense evidence that came
23 in, during the period of time we were waiting on the
24 plaintiff's other witness to show up. Does that
25 make sense?

1 MR. GILLIAM: I think so.

2 THE COURT: I try to be as accommodating
3 as I can to y'all on witness schedules. And so for
4 the bucket of people who can make it late in trial,
5 after they have already rested conditionally, then
6 we would take them out of turn.

7 MR. McKEEBY: Okay. But I don't know
8 Ms. Guttierrez's schedule. All I know is she
9 indicated a willingness to come to trial.

10 So I just -- I can't speak to the level of
11 specificity that I think you are contemplating.

12 THE COURT: Well -- and so my thought is
13 what it comes next to is, if you have a witness who
14 is not under your control but otherwise willing,
15 then what we need to hear from Carter is -- and I
16 don't need to be in the middle of this -- but
17 proposed dates, right?

18 So Carter, if you have got 12 hours,
19 obviously, you are not the only one questioning
20 witness at first, right? That 12 hours is your
21 direct mixed with their cross.

22 I think you need to start finding dates
23 for when you would take each witness. We are going
24 to have opening argument on Wednesday, July 6th.
25 But then before lunch, we are off to the races on

1 witnesses.

2 So what I would like y'all to do is by the
3 end of the day try to send a list to Southwest of
4 what days you would like witnesses. And then if
5 Southwest is representing those -- I mean, I
6 understand -- I represented when I was in private
7 practice, I represented formers as well.

8 You might be representing them but not
9 controlling them. And so I get that distinction
10 very clearly.

11 You can pass along those dates and see if
12 they work. If they don't, then we will have
13 out-of-bound dates, right, which is, we expect this
14 case to go to the jury on that Tuesday of the
15 following week. Is there any time in there that you
16 can make this work.

17 So if you can get the preferred dates, and
18 then if that doesn't work, we will talk through the
19 fallback dates where you take the witnesses after
20 you have already rested conditionally.

21 MR. GREENFIELD: And, your Honor, if the
22 Union can be looped into that conversation because
23 with at least a couple of the witnesses there is
24 similar control sort of issues, but some willingness
25 on the part of at least some of the witnesses to

1 attend. But, again, not in our control to make them
2 be here.

3 THE COURT: Got it.

4 Okay. So Guttierrez is a former, who has
5 at least expressed intent to cooperate.

6 MR. McKEEBY: Correct.

7 THE COURT: Let's keep going through all
8 of those for Southwest and Union, and we will figure
9 out who is in what bucket.

10 But I do think regardless of what bucket
11 they are in, we need Carter to say perhaps what
12 witnesses -- since they are pretty much all of your
13 witnesses, say what witnesses they would like to
14 take on what days so we can try to match up
15 schedules.

16 MR. McKEEBY: And one thing I would note
17 about Guttierrez that distinguishes her from some of
18 the others is that she's local, the fact that she's
19 here.

20 THE COURT: Okay. So that is Guttierrez.
21 Who is the next one that you mentioned?

22 MR. McKEEBY: Imlet, I believe.

23 THE COURT: Imlet.

24 MR. McKEEBY: She's similar in that she's
25 a former employee, who has expressed a willingness

1 to appear.

2 She is different in that she lives in
3 Colorado, so she would be flying in.

4 THE COURT: Okay.

5 Who should we talk about next?

6 MR. McKEEBY: Mr. Schneider is a current
7 Southwest employee who lives in Colorado. He will
8 be flying in.

9 Again, what I would ask is that we confer
10 about -- to the extent that they want to call him as
11 part of their case-in-chief, the protocol that you
12 just described sounds good to me in terms of
13 identifying a time to require him to be here.

14 I guess one other question, though, for
15 someone like him, and, I guess, Imlet and Guttierrez
16 as well, to the extent they are being called as part
17 of their case-in-chief, am I going to be allowed to
18 question them fully on, I guess, it is redirect
19 or do I -- because I don't -- what I don't want to
20 do is have to have him sit here in Dallas and wait
21 until we are ready for him.

22 Is that going to being acceptable?

23 THE COURT: I am thrilled about trying
24 this case because y'all are asking these questions.

25 Normally this question comes up after all

1 of the three rounds of questioning of a witness.

2 And I say, am I excusing you? Parties, let's come
3 huddle at sidebar.

4 And then they say, well, yeah, we would
5 like to keep him. Did you ask all the questions
6 that you wanted to. Cross-examining lawyer, well,
7 no. Okay. Well, we should have covered that on the
8 front end.

9 I'm thrilled that you are smart enough to
10 bring that up. That is in my outline. Thank you
11 for bringing that up.

12 Here is how I handle these. I prefer if
13 it is out-of-town witnesses, for the parties to be
14 okay handling them all at once, if they can, right?
15 In which case I would allow a wide open cross,
16 right? Ask any question you want to, and when we
17 are done with a witness, we are done.

18 That is how I prefer we handle it. There
19 are some times when there is an acute reason from
20 the plaintiff where they can't have those questions
21 that are on wide-open cross cluttering up their case
22 for directed verdict reasons.

23 But yeah, I think we're going to have a
24 slightly odd record because I think we may have some
25 records that have to get taken at the very end of

1 the case.

2 I can segment directed verdict things all
3 day long, right?

4 So my preference is for out-of-town
5 witnesses, let's handle them all at once, let's do
6 wide open cross. After we are done with all the
7 questions, we will huddle at sidebar, everyone good
8 with letting them go.

9 If not, we will talk about it. And I can
10 excuse from trial, from the trial stand, but not
11 from the trial and make them subject to recall
12 later.

13 Any questions or concerns on that?

14 MR. McKEEBY: Your Honor, I just wanted it
15 to be stated and not unspoken, I think it is assumed
16 from this conversation, but we do want all of these
17 witnesses during our case-in-chief.

18 THE COURT: I would assume that that is
19 your preference. And that is why I am expecting in
20 the communication by the end of the day, you would
21 want them all before your calculation as of when you
22 would rest, right? Does that make sense?

23 So that is my guess.

24 And that makes sense to me. I think you
25 should ask that, as an initial matter, if we have

1 travel plans with a couple witnesses who makes that
2 difficult, then we can start talking about if we
3 take them out of turn.

4 But I do have a preference for handling
5 out-of-town witnesses all at once. If they are in
6 town, I don't care. If you want to deal with them,
7 I think that is great and the jury likes hearing
8 from them once. But it doesn't mean that I'm going
9 to force you on an out-of-town witness -- on an
10 in-town witness to handle them at once.

11 So we have covered Guttierrez and
12 Schneider.

13 MR. GREENFIELD: Your Honor, if I may,
14 just to back up, the only thing I see as a potential
15 issue or conflict on that is if certain individuals
16 aren't necessarily held to the end, then potentially
17 calling them back as a rebuttal witness for
18 testimony that would come out after they were here.

19 That would be the only kind of caveat I
20 see that could create an issue for our presentation,
21 at least.

22 THE COURT: It is. And so I never mind
23 calling a witness back as a rebuttal witness.

24 So what I can do is, I mean, we could have
25 an agreement where we try to handle all out-of-town

1 witnesses with wide open cross, and try to get in
2 all questions we are aware of at the time.

3 If there is other testimony that comes up,
4 that is a changed circumstance, where we need to
5 recall them, so be it. Does that make sense?

6 So it may be that we have this agreement
7 for wide-open cross, everyone takes their shots that
8 they know about it. But I don't excuse any witness
9 from the trial and make them all subject to recall.

10 MR. PRYOR: Your Honor, on the conditional
11 close, when the plaintiff does a conditional close
12 because of a witness or two that the defendants are
13 to provide but aren't able to because of scheduling,
14 the plaintiff will still go first in the examination
15 of that witness?

16 THE COURT: Yes.

17 And what I could do on a conditional
18 close, if we have scheduling issues where there
19 needs to be an out-of-turn witness, I can tell the
20 jury, Hey, we've got a couple witnesses the
21 plaintiff is going to call later on in the case but
22 they are done with the witnesses we have available
23 for them now.

24 Now we are going to hear from the defense
25 until we get those plaintiff's witnesses later.

1 I can do that to try to say that I'm sort
2 of the schedule coordinator, even though I'm not,
3 and just make it not look like y'all are up to
4 shenanigans, if that makes sense.

5 Okay. So who is after Schneider?

6 MR. McKEEBY: I'm not sure.

7 THE COURT: Okay.

8 MR. McKEEBY: Unless you want me to pick
9 someone.

10 THE COURT: You can just pick someone.

11 I'm just trying to talk through anyone who
12 we might have issues with, either travel or former.
13 Does that make sense?

14 MR. McKEEBY: Well, there is yet another
15 bucket, and maybe I will get to these folks now,
16 which are a group of four flight attendants who I
17 understand to be currently employed.

18 Among the people who are in these
19 subpoenas, that are not local, and I don't know
20 that, you know -- I mean, they are rank and file, if
21 you will, employees, not managers. They are not
22 within the same control as someone who is appearing
23 as an executive or supervisor.

24 So I don't know how we want to handle
25 those folks. Well, I take that back, a couple of

1 them have been deposed in the case, two of them have
2 not. But they have listed them in their witnesses,
3 and have also served me with subpoenas for these
4 folks.

5 I don't have the authority to accept
6 subpoenas on their behalf. I don't know that
7 Southwest does either. I don't think they are
8 compliant with Rule 45, the subpoenas. So I guess
9 we should talk about those four people.

10 MR. GREENFIELD: And I think we have some
11 overlap on those witnesses.

12 THE COURT: Can we name those four people,
13 the flight attendants?

14 MR. McKEEBY: Jessica Parker, John Parrot,
15 both of those folks have been deposed.

16 And the other two, Brett Navarez and Brian
17 Talburt.

18 And I apologize, I misspoke. My
19 understanding is that Mr. Perrit is a resident of
20 Dallas.

21 MR. GREENFIELD: He's not. He's from
22 Oregon.

23 MR. McKEEBY: I'm corrected. He's a
24 resident of Oregon.

25 THE COURT: Close.

1 MR. McKEEBY: Just missed it.

2 MR. GREENFIELD: And Ms. Parker is a
3 resident of Denver, I believe, further upstate.
4 Further up in Colorado.

5 And Mr. Navarez is somewhere on the west
6 coast. I know he's not here in Dallas.

7 THE COURT: Do we know Talburt? I'm
8 sorry. Did you say Talburt?

9 MR. GREENFIELD: I don't know his current
10 location off the top of my head, but I don't believe
11 he's based in Dallas.

12 MR. McKEEBY: Phoenix is what I'm advised.

13 MR. GREENFIELD: Phoenix is Talburt.

14 THE COURT: Got it.

15 So for these four, let's talk about -- I
16 mean, you represented the first two in the
17 deposition.

18 But the question is, are you authorized to
19 accept service of the trial subpoena for them?

20 MR. McKEEBY: I did not represent them in
21 the first deposition. They were deposed as Union
22 representatives.

23 MR. GREENFIELD: Yes, your Honor. They
24 were 30(b)(6) witnesses on behalf of the Union.
25 Specifically, Ms. Parker and Mr. Parritt, at the

1 time, they were both members of the Union's
2 executive board and we were able to execute control
3 over them.

4 They are no longer in our control. They
5 are just rank and file employees of Southwest
6 Airlines at this point.

7 THE COURT: Understood.

8 So your representation of them could not
9 continue because they are not executive members of
10 the Union now.

11 Southwest might represent them.

12 MR. GREENFIELD: We have no control over
13 them at this point.

14 THE COURT: I get that.

15 And so if you have control over them, it
16 is control as a line-level Southwest employee?

17 MR. McKEEBY: Correct.

18 THE COURT: Okay.

19 So let me ask questions. I mean, are
20 there problems with the trial subpoenas that you
21 want to flag now? Because in my mind, control has
22 shifted from one defendant to another. But if they
23 are still an employee, I still view them as under
24 control.

25 I know that there are scheduling issues

1 that can arise with flight attendants and how far
2 out you book, which flight.

3 MR. McKEEBY: I have no idea. We haven't
4 been in touch with these folks, as far as I know.
5 So I don't know their availability. And, again --
6 so I mean, I would have to check and address that
7 issue, I suppose.

8 THE COURT: Understood.

9 MR. GREENFIELD: In regard to Mr. Parritt,
10 we don't anticipate any issues with his willingness
11 to show up, at least, you know, communicated
12 scheduling, et cetera, with the plaintiffs. And the
13 same thing goes with former President Stone.

14 But Ms. Parker and Mr. Navarez has at
15 least on some level expressed unwillingness to be
16 here. And I have no control to -- just as far as
17 the Union's control is over these individuals.

18 MR. McKEEBY: And again, that goes to the
19 validity of the subpoenas. I don't think they can
20 just serve a lawyer of a company with a subpoena of,
21 in this case, a flight attendant and compel that
22 person to be at trial.

23 That is not what Rule 45 says. They have
24 to -- they want them here, they have to subpoena
25 them, which they can't in this case, at least with

1 respect to most of these people, because they are
2 outside of the subpoena power.

3 MR. GREENFIELD: We also received this
4 morning, right outside of the courthouse, subpoenas
5 for Ms. Parker and Mr. Navarez as well. Again, we
6 don't have the ability to really accept these.

7 THE COURT: Well, so I see your point, Mr.
8 McKeeby. But at the end of the day, if they are
9 Southwest employees, can't Southwest compel them to
10 come to trial?

11 MR. McKEEBY: I -- I -- usually the answer
12 to that question would be, of course. I'm not sure,
13 because of the Union and they are Union members,
14 that it is that simple. I guess I can check and see
15 if that is the case.

16 THE COURT: Dan, I'd like you to check.
17 Because I mean, I have gotten someone here from
18 Spain. That was under the control. Control
19 stretches as far as the corporation does, if that
20 makes sense.

21 And so if a corporation, you know, it is
22 easier for at-will employees, not Union members, but
23 at-will employees, they have to do anything the
24 corporation tells them lawfully to do.

25 MR. McKEEBY: Well, yes.

1 But I mean, again, the Union -- you know,
2 existence here is significant. I mean, I could,
3 frankly -- I mean, because it will be unusual for
4 Southwest to reach out to an employee absent some
5 Union contact. And say, Hey, by the way, you have
6 to be at trial in Dallas, oh, by the way, in which
7 the Union is a party.

8 That is going to be a very complicated
9 process. And the employee very likely, if they got
10 that call from, you know, my contact at Southwest
11 Airlines, is going to tell that person, no, I'm not
12 coming to Dallas. You need to talk to my Union.

13 So it is not as simple as in most cases,
14 given the Union presence.

15 MR. GILLIAM: Your Honor, counsel for both
16 Southwest and Local 556, it is as simple enough as
17 coordinating between the two to get some of these
18 witnesses here.

19 THE COURT: And I'm going to have two
20 suggestions.

21 Suggestion one is, could we have a
22 coordinated effort? I know they are no longer Union
23 management and that doesn't necessarily mean --
24 well, they are no longer under the control of the
25 Union but that doesn't mean the Union has no role.

1 So if there could be coordinated reach
2 out, one, that would be helpful.

3 Two, if you don't hear back in 48 hours
4 that someone from Southwest will accept service of
5 the subpoena, I'm going to suggest you do the
6 subpoena the old way, right?

7 Now, the question is, if they are beyond
8 the subpoena power of the Court, then we are again
9 relying on control of the corporation to get them
10 here, the corporation being Southwest.

11 But if you are here on Rule 45 issues,
12 then I think some of those could be circumvented by
13 you serving those witnesses individually, if that
14 makes sense.

15 MR. GILLIAM: Understood, your Honor.

16 And one of the reasons why we did go that
17 route for some of the witnesses was that on the
18 initial disclosure, Southwest indicated contact
19 certain individual through counsel. Others were not
20 listed on their initial disclosures, but the ones
21 who were, were -- and the same goes for Local 556
22 and Southwest. They said to communicate and contact
23 these people.

24 THE COURT: And that is the normal course
25 because they would prefer that, right? No one wants

1 to be a flight attendant touching down and then a
2 process server shows up and hands them a trial
3 subpoena.

4 What I'm trying to say is, I will give a
5 48-hour period for Southwest and the Union to work
6 with that person, right? On whether or not they can
7 attend trial, whether or not an attorney for
8 Southwest will accept service of that subpoena for
9 them.

10 Beyond that window, now we are getting
11 into the point where you need to clear off those
12 defects. And if that is a defect, you need to work
13 on clearing it off and serve it the old fashioned
14 way. I give you permission to serve anyone
15 individually.

16 Let me think through it.

17 Let's say, it is Monday at 5 p.m. is sort
18 of my deadline for when I think you have a green
19 light to no longer work through them for service of
20 a subpoena. And you can work separately on service
21 of a subpoena.

22 Even if you serve those subpoenas
23 separately, I think Southwest would still have a
24 continuing duty at that point with a duly-served
25 subpoena to make that person available for trial.

1 But specifics and mechanics, we need to
2 talk through that because I'm not trying to
3 inconvenience these people.

4 MR. McKEEBY: What about people that are
5 outside of subpoena range?

6 THE COURT: So, again, if we have the
7 corporation -- I mean, you need to flag for me if
8 there is an Union issue, right? Union, in my mind,
9 and Southwest should both be telling the person,
10 Hey, you are under the control collectively of
11 Southwest and the Union, and Southwest and Union
12 need you at trial because you were subpoenaed.

13 MR. McKEEBY: Okay.

14 THE COURT: Now, if I'm wrong on that,
15 tell me I'm wrong, if you have got some case law on
16 that.

17 To me, I hear there are two individuals
18 who might have some level of control. If both of
19 them are parties and there is a trial subpoena that
20 is validly served, if not agreed to be accepted,
21 then I think that collective control should be able
22 to get them here.

23 MR. McKEEBY: Okay. Well, I can just tell
24 you that I'm not going to be authorized to accept
25 subpoenas for collective bargaining represented

1 flight attendants. So they are going to have to
2 subpoena them in the old fashioned way and then we
3 can cooperate at that point.

4 THE COURT: So I understand that.

5 So no longer on Monday at 5:00 deadline.

6 What I will ask is, if the Union or
7 Southwest, or both, could provide location for a
8 process server of where they will be, right? I
9 don't want any hiding of the ball, I don't think
10 y'all will. But because we are on the eve of trial
11 now, they may be chasing them around the country.

12 Then that will give y'all -- I mean, if
13 y'all want to tell them, if y'all want to be
14 professional and coordinating, we plan on serving
15 them on this layover and you want to tell them that
16 and give them a heads up and they won't be
17 surprised. I think that would be a professional
18 courtesy, if you can't accept service.

19 MR. McKEEBY: I can try to do that.

20 THE COURT: Understood.

21 MR. GILLIAM: I can as well.

22 MR. McKEEBY: Just provide their
23 addresses? I think one of the communications that I
24 received last night has residential addresses, so I
25 can provide that as well.

1 THE COURT: Understood.

2 I know these are difficult, and with the
3 Union overlay, they are all the more difficult.

4 I appreciate y'all working through it. It
5 is a challenge.

6 MR. GILLIAM: Your Honor, so it is no
7 longer a Monday deadline. Is there a particular
8 deadline now?

9 THE COURT: So here is the thing in my
10 mind. The Monday deadline I was giving you was the
11 deadline to start serving them with the trial
12 subpoena because I understood them to say that they
13 wanted to have a discussion on whether or not to
14 accept service.

15 If I understand the current position is,
16 he knows he can't get there, he's saying I can't
17 accept service for under the CBA. In that case,
18 then, I'm no longer sitting you out until Monday at
19 5 to serve them directly. You can serve them
20 directly an hour from now, if you want to and can
21 find them.

22 What I'm asking them to do, by the end of
23 the day, provide you with location information of
24 where they will be next week, so that you can serve
25 them.

1 I would say serve them the sooner the
2 better because that serving is what now opens the
3 dialogue as to scheduling, right?

4 And so if you serve them next Friday, it
5 is going to have less time to promote a cooperative
6 schedule than it is if you serve them on Monday or
7 serve them tomorrow.

8 Okay. So what other witnesses or buckets
9 do we need to talk about? Because we haven't talked
10 about anyone wholly separately on your list.

11 Mr. Greenfield.

12 MR. GREENFIELD: There was only four
13 individuals, President Stone -- former President
14 Stone, who has expressed willingness to be here. We
15 will work with the other side on the scheduling on
16 that. The same with former board member, John
17 Parritt.

18 It is really the two additional,
19 Ms. Parker and Mr. Navarez, who are, as we have
20 discussed, outside of the subpoena range. They do
21 not live here. They are not within the Union's
22 control. And I guess there is potential issues, I
23 guess, of whether Southwest has the ability to get
24 them here.

25 And as Mr. McKeeby has expressed, he

1 doesn't have the ability to accept service on their
2 behalf. We would be happy to work on addresses, et
3 cetera.

4 But I don't want to run afoul of the Court
5 on the Union's role in this. I just don't know how
6 I can help because they are outside of our control
7 in making them be here.

8 THE COURT: Well, I understand that.

9 So the thing I'm getting to is, if it is
10 two players at issue with Southwest and the Union,
11 is it possible that neither has control? That would
12 be a strange phenomenon to me. I realize that it is
13 diffusion of power, but I don't know it is an
14 absence of power.

15 So what my anticipation is, is once they
16 are validly served with a trial subpoena, to have
17 dual communication going on with Southwest and the
18 Union, saying, we share power in this arrangement.
19 So we really would like you to be there because you
20 have been validly subpoenaed now for trial. What
21 can we do to help make that happen?

22 Southwest has airplanes and jump seats and
23 things of that nature.

24 MR. McKEEBY: I think that -- and again, I
25 have questions and reservations about whether or not

1 there can be a validly-served subpoena given where
2 some of these people are geographically.

3 But at the same time, I'm fine to work
4 with, you know, look -- to say along the lines you
5 suggested, you have been subpoenaed, you should
6 come, we would like you to come, here is the flight
7 that you can take to get here.

8 THE COURT: Can I ask -- so it sounds like
9 the toughest cases might be Parker and Navarez on
10 willingness.

11 Who else would be?

12 MR. McKEEBY: Talburt.

13 THE COURT: Halpert.

14 And can you remind me of Halpert's
15 situation?

16 MR. McKEEBY: Talburt is a flight
17 attendant and lives in Phoenix.

18 THE COURT: Sorry. Talburt. I heard
19 Halpert, my bad.

20 MR. McKEEBY: Talburt with a T.

21 THE COURT: Okay. I'm trying to think,
22 the worst case scenario, break glass in case of
23 emergency, do we hear testimony by deposition?

24 I know Talburt was not deposed. Navarez
25 was not deposed. And both of those have willingness

1 problems, right? Or at least Navarez certainly
2 does.

3 So I guess that is the question. And so,
4 in that situation, obviously, I'm fine with you
5 presenting someone by deposition.

6 If we have a situation where someone has
7 not been deposed, then we have an issue. And then I
8 may need to make them sit for deposition, a full one
9 between now and trial, right?

10 Fortunately, we have the advantage of more
11 than a week, which is not what we normally have.

12 MR. McKEEBY: What about appearing by
13 telephone at trial?

14 THE COURT: That is a good question.

15 How about, let's talk through that maybe
16 in a status report. If that is -- if our options
17 are down to deposition or Zoom kind of testimony,
18 then let's talk through that.

19 I don't want to go there just yet. I
20 don't think we are there just yet.

21 MR. McKEEBY: Okay.

22 THE COURT: I guess my point being, if
23 they can't come to us, y'all can go to them.

24 And I think there is plenty of time to
25 make that happen between now and then. I wouldn't

1 put a one-hour limit on it. You are entitled to
2 fully discover everything they need. But I think
3 that is where we are at.

4 So can y'all update me with periodic
5 status reports on how we are doing on these?

6 You know, I will leave it to y'all to
7 understand the triggering events that would warrant
8 a status report. But if y'all are cooperating and
9 talking and folks have been served and you are
10 working on schedules, great.

11 If things are breaking down and it looks
12 like someone just isn't going to be there, there is
13 no power to compel them, those are the kinds of
14 things I need to know.

15 For example, if I'm going to order a depo,
16 I need to make that by court order, right? Because
17 we are way past the fact discovery cutoff.

18 If there are things I need to do in order
19 to make sure that testimony that needs to happen
20 does, then let me know what I need to do.

21 MR. McKEEBY: Well, I have two more
22 buckets. I'm not sure the Court's buckets are my
23 buckets.

24 THE COURT: Let's do it.

25 MR. McKEEBY: The one should be pretty

1 easy, which is people who are no longer employed
2 with Southwest that we haven't talked to about their
3 willingness to participant because we don't intend
4 to call them.

5 Those employees would be -- actually, some
6 of whom were on the first -- in the first bucket
7 about people who we contemplated a deposition for
8 because they were not listed as -- in the
9 plaintiff's initial disclosures.

10 So the four that I have are Tammy Shaffer,
11 Naomi Hudson, Melissa Burdine and Edie Barnett.
12 They are not employed with Southwest any longer. I
13 think they are all local, but I don't know that for
14 sure.

15 And so I don't have control over them at
16 all, either formally or otherwise.

17 THE COURT: So that was Shaffer, Hudson,
18 Burdine, Barnett?

19 MR. McKEEBY: Yes.

20 THE COURT: And I had Hudson and Burdine
21 in that first group, where I had said a one-hour
22 Zoom depo is okay.

23 MR. McKEEBY: I apologize for not raising
24 that.

25 THE COURT: I think I tried to cut you off

1 from raising that, but I didn't realize the
2 interplay. That is my fault, not yours.

3 Okay. Then the Southwest one I have at
4 issue previously was Shaffer, in the second bucket I
5 said, they can call them, if they want. I'm not
6 going to make them sit for a deposition, but here
7 they may not be able to call them, if they want.

8 But if they are within 100 miles, I think
9 here what we need to do is have you subpoena them.
10 Do the trial subpoena's within a hundred miles.
11 They can show up. You may not know what they're
12 going to say.

13 Now, I would say because at least two of
14 these folks with Hudson and Burdine are in that
15 bucket 1, right? Southwest should make them
16 available for a depo. That is if they are under the
17 control of Southwest.

18 So Southwest, you can communicate with any
19 of these parties. I would expect if I were one of
20 these folks that I would want you as my lawyer. I
21 wouldn't want to fly blind or pay for a lawyer
22 myself. So I have no problems with you
23 communicating with these folks and being their
24 lawyer in the depo, if you want to.

25 But in my mind that bucket 1, I'm still of

1 the mindset they should sit for a one-hour Zoom
2 depo, whether you are their lawyer or not. Does
3 that make sense?

4 I'm not saying you have to -- well --

5 MR. McKEEBY: How do they compel their
6 attendance at the deposition?

7 THE COURT: By my court order.

8 And so now what you are telling me is that
9 some of these folks in the bucket 1 that I thought
10 were under your control are not, at least one or two
11 of them are not.

12 And so what I need to do is come up with a
13 court order, probably for all of these in bucket 1.,
14 and that will just cover the subset of bucket 1
15 which is folks that are not under your control.

16 And by court order, I'm requiring them to
17 sit for a one-hour depo, could be by Zoom, between
18 now and the start of trial.

19 Does that make sense?

20 MR. McKEEBY: Yes.

21 THE COURT: And so that will be your
22 triggering event, where if you want to, you can
23 reach out and say, Hey, I know a process server is
24 probably coming to find you, we are happy to be your
25 lawyer for this one-hour depo. And if you appear at

1 trial, we are happy to be your lawyer at trial.

2 MR. McKEEBY: Okay. But -- but they are
3 still the -- what is contemplated or required that
4 they be served with process for the depositions.

5 THE COURT: For these people who are not
6 under your control, right? And so that would be the
7 Burdine and Hudson subset.

8 MR. McKEEBY: And Shaffer and Barnett?
9 Oh, no, those are not the same. Just Hudson and
10 Burdine.

11 THE COURT: Right.

12 And so for the others, they are currently
13 Southwest employees, I'm assuming, Rutherford,
14 Conlan, Kleburne.

15 MR. McKEEBY: They are, but we are going
16 to get to them because of the availability issues.
17 But that is the last bucket.

18 THE COURT: Right.

19 Okay. So let me make sure I understand
20 where we are at on Shaffer.

21 Shaffer was in the second bucket, where I
22 said if they want to call them to trial, great.
23 Shaffer is no longer an employee. I was not going
24 to make Shaffer sit for a deposition based on
25 Southwest's representation that there is no personal

1 knowledge. They were just copied on investigation
2 emails. So I don't think, based on that
3 representation, I'm going to take the extra step and
4 make them sit for a depo in Shaffer.

5 Based on that, I still think, if you want
6 to serve Shaffer with a trial subpoena, it sounds
7 like Shaffer is local, right? Within 100 miles. So
8 if you want Shaffer to show up, fine. But Shaffer's
9 status as a former employee means they are certainly
10 not going to accept service. And there is no
11 deposition to talk about. It is just you do a trial
12 subpoena on Shaffer. We know they won't accept it
13 because Shaffer is a former.

14 Okay. So Barnett is the last one to talk
15 about. I don't know that Barnett was in any of the
16 other groups we had talked about. So Barnett is now
17 in a new bucket, which is a former employee, who is
18 local.

19 Which I think we treat Barnett and Shaffer
20 the same, right? Any reason not to?

21 So you need to serve Barnett directly.
22 I'm not going to make Barnett sit for a separate
23 depo, because we don't have an additional disclosure
24 issue running around.

25 And if Southwest wants to reach out to any

1 formers and offer representation, that is fine.
2 That is normal course. They don't have to. Y'all
3 can talk about scheduling, if you want to proceed
4 with Barnett.

5 MR. GILLIAM: One point of clarification
6 of the bucket of people no longer employed by
7 Southwest.

8 We did talk about earlier also Guttierrez,
9 who has also been deposed, again, no longer employed
10 with Southwest.

11 I guess we subpoena her. We can subpoena
12 her directly for trial, but we don't have an address
13 for her.

14 MR. McKEEBY: I will provide an address
15 for her.

16 THE COURT: I understand she's local.
17 Hopefully, that is within 100 miles, but also
18 cooperating is the note I had.

19 If you subpoena her, you will probably end
20 up talking to -- you anyways.

21 MR. McKEEBY: I suspect that is right.

22 THE COURT: Got it.

23 Any other witnesses and availability we
24 should talk about?

25 MR. McKEEBY: Yes.

1 So that brings us to the last bucket of --
2 I apologize.

3 THE COURT: It is okay.

4 MR. McKEEBY: My notes are getting a
5 little difficult to read.

6 Four current Southwest employees who were
7 on their initial disclosures, who we, again, think
8 have very, very tangential relevance to anything in
9 this case.

10 They are Linda Rutherford, Brendon Conlon,
11 Nancy Kleburne, and Sonia Lacore.

12 Again, all of which may have been copied
13 on an email, but we are not going to present them as
14 decision makers or involved in providing
15 recommendations with respect to the termination or
16 really being at any of the grievance proceedings
17 leading up to the termination.

18 And so, again, we don't feel like those
19 folks are particularly relevant anyway. That is why
20 we didn't list them in our initial disclosures.

21 They all, for various reasons, the level
22 of specificity we can get into, not available at
23 least for trial. That is the person in Kuwait, i.e.,
24 Ms. Rutherford. Jamaica is Mr. Conlan.

25 THE COURT: Can you give me those dates

1 for Rutherford?

2 MR. McKEEBY: Rutherford is July 1st
3 through July 8th.

4 THE COURT: All right.

5 And then Conlan?

6 MR. McKEEBY: Conlan is Jamaica from
7 July 1st through July 8th.

8 And then Kleburne has various travels
9 plans between July 5th and July 17th, per this
10 email.

11 THE COURT: Are those continuous travel
12 plans?

13 MR. McKEEBY: Ohio. And then to Arkansas
14 to see family.

15 Southwest gives a lot of very good
16 vacation benefits. So, yes, she's going to be in,
17 it looks like, four different states, between
18 July 5th and July 17th.

19 THE COURT: Why not add a fifth? I'm
20 joking. We will get to that at some point.

21 Okay. So July 5th to 17th.

22 MR. McKEEBY: Right.

23 And then Lacore is probably less
24 interesting, but she has -- is going to be in
25 Atlanta for apparently a very critical work

1 function, some type of hospitality summit.

2 That is the week of July 11th. And the
3 week of July 4th, she's on some type of out-of-town
4 vacation, the details of which I do not have.

5 And, frankly, with respect to these two,
6 it might be the preference for them to sit for an
7 hour deposition, as opposed to having to appear at
8 trial, given their plans. So I'm not sure how to
9 deal with it.

10 THE COURT: Understood.

11 So let me pitch it to Carter's team now
12 and see what the preference is on a path forward on
13 these four.

14 MR. GILLIAM: What are the preferences?

15 THE COURT: Right.

16 For example, Rutherford and Conlan, their
17 travel dates cutoff July 8th. We will still be
18 going after July 8th, but you will be rested by that
19 point.

20 Do you prefer to pursue an out-of-order
21 live fire presentation of them at trial, is my first
22 question. Because their timing is a little bit
23 different than Kleburne and Lacore's timing, which
24 is difficult because it is the entirety of the
25 trial.

1 MR. GILLIAM: If that is the only option,
2 then I would say yes.

3 THE COURT: For an out-of-order live
4 witness presentation?

5 MR. GILLIAM: Yes.

6 THE COURT: Yes.

7 So I think that goes back to my suggestion
8 of today, can you tell them, by the end of the day,
9 what all witnesses you want and when.

10 Now you know those schedulings, so you may
11 just present an out-of-order date beyond July 8th,
12 where you would take the witness conditionally.

13 And then for the other two, if they have
14 got these blackouts -- I mean, my inclination on the
15 other two, if they are blacked out the entire time,
16 then have them sit for a one-hour depo beforehand.

17 If they have marginal relevance, you can
18 find out what the relevance is. And then you would
19 know before trial whether or not you would even read
20 a two-minute portion of the transcript.

21 That would be my inclination. And if they
22 are current employees, then I can order them to sit
23 for a depo that occurs after fact discovery.

24 MR. GILLIAM: We do view them as relevant,
25 I think for the answers that we have already stated.

1 Lacore was copied on President Stone's
2 complaint of Carter, when she made her complaint the
3 first time.

4 Also, Lacore is relevant because President
5 Stone negotiated grievances and employee discipline
6 with -- specifically social media discipline with
7 Lacore, the vice president of in-flight services.

8 So, again, it goes to the scope of
9 Ms. Stone's official capacity of grievance handling,
10 handling social media discipline issues.

11 And Kleburne was the manager of
12 Southwest's task team, that's their accommodations
13 team.

14 So any sort of religious accommodation
15 would have to be referred to her. And it would be
16 significant, even if she didn't handle an
17 accommodation issue.

18 THE COURT: Understood.

19 So I think I have heard enough to say that
20 I will have them sit for a one-hour depo, if they
21 were not available in trial. And then I will leave
22 the scheduling and coordinating of that up to y'all.

23 What I think getting we're getting into
24 is, we will have at least some trial presentations
25 by depo transcript, right? That is where we have

1 the procedure, show us the full transcript, make
2 your depo designations, counter-designations,
3 objections, responses.

4 And so now we will be doing some of that,
5 that is between now and trial, right? So I'm going
6 to ask y'all, if you have a deposition in hand for a
7 witness who will not be at trial, that is one of
8 these one-hour depositions, within 24 hours of getting the
9 trial transcript, can you file deposition
10 designations with me? That gives me the full
11 transcript and the objections. The other side will
12 have -- need to come in 24 hours later.

13 For example, you objected to form on the
14 record 10 times during designated testimony. Here
15 is our 10 objections. We said object to form,
16 really we meant hearsay.

17 And so at 24 and 48 hours after the
18 transcript comes in hand, I would like to see those.

19 But here is what I do with the depo
20 designations, right? I guess it takes a little bit
21 different tactic practically if it is a video depo
22 or a paper depo.

23 If it is a video depo, then I give you all
24 of the rulings on the objections that are getting
25 pressed so that the videographer can edit out all

1 the content where I sustained an objection.

2 Where I overruled an objection, they can
3 edit out the objection. And so the goal is for the
4 jury not to hear the word "objection" during the
5 depo.

6 If it is paper, it is a little bit
7 different. There is no videographer involved and
8 y'all are going to role play, right? You actually
9 put another person, not named Lacore, on the stand
10 to read Lacore's testimony and then the lawyer will
11 question.

12 Then you can just scratch through any
13 objection and whatever I cut out in my sustained
14 objection. Does that make sense? That is the end
15 game.

16 So it is either a role play on a paper
17 transcript or playing a video. But either way, we
18 have edited out the objections that someone is
19 pressing, whether I sustained or overruled those.

20 I plan on turning those back to y'all as
21 soon as I can. But they are going to exist, and
22 they are going to be annoying for y'all to have to
23 go edit with the video or carve up with the paper
24 transcript.

25 Before the first witness we hear from by

1 depo, then I will need to give the disclaimer about,
2 we are about to hear from the next witness by depo,
3 give it the same weight as if the person were here.
4 The juries don't like it as much. So it is what it
5 is.

6 Maybe you can bring in James Earl Jones or
7 somebody to read the transcript and give it life and
8 breadth and meaning.

9 Okay. So I think we have covered depo
10 designations.

11 Any questions?

12 I need on my end a written order that sets
13 these folks in bucket 1, and the folks in the last
14 bucket, Kleburne and Lacore, those folks are ordered
15 to sit for a one-hour depo.

16 We know we will hear from you today, Mr.
17 Gilliam, about who you hope to take when. And there
18 can be a coordination that tries to go on with the
19 other folks. They are going to tell you location
20 information for the folks that you need to serve
21 with Rule 45 trial subpoenas. And then, hopefully,
22 there will be a conversation cooperatively after
23 that.

24 If we have issues on control and getting
25 someone here, y'all are going to let me know with a

1 status report, so if I need to order their depo to
2 take place, like we are doing with Kleburne and
3 Lacore before trial, if we can't get them here, that
4 can still happen in a timely fashion before trial.

5 Any other questions?

6 MR. McKEEBY: Yes, one point on the
7 wording of the order.

8 I think this applies to Lacore, but not
9 Kleburne. I think it should read that to the extent
10 that they are not available to appear at trial, they
11 are ordered to appear for a one-hour deposition.

12 THE COURT: Okay.

13 MR. McKEEBY: I think that is not going to
14 matter. I don't think -- I think we are going to
15 produce them both for deposition, but I just would
16 like to us to have the option, just in case.

17 I assume that is agreeable.

18 THE COURT: So is this just for Lacore or
19 Kleburne as well?

20 MR. McKEEBY: It's just for Lacore, from
21 what I can gather from the schedules.

22 I mean, it looks like Lacore might have
23 pockets of availability, but I can't quite tell
24 from --

25 THE COURT: Maybe a drive-by. Moving from

1 one state to another, which is fine. We will make
2 it happen, right?

3 Okay. Other things on witnesses and
4 availability?

5 MR. GREENFIELD: Your Honor, you just
6 mentioned a status report on some of these witness
7 issues.

8 Did you have a specific date or time that
9 you had set out that I didn't get down?

10 THE COURT: No. Because I think the
11 status report might be so bland, you don't need to
12 file it.

13 If everything is going as planned and all
14 of these folks are going to show up one time or
15 another, that doesn't need to be filed, right?

16 I will assume everything is good until it
17 is not.

18 When it is not good, I would like to know
19 because those people who you thought may show up to
20 trial but now it looks we have no way to compel them
21 to attend, those are the folks who, worst case
22 scenario, I would need to order to sit for a
23 deposition before trial, to do the process that we
24 are doing with Kleburne and Lacore in that bucket 1.

25 I need to know that as soon as possible,

1 just because then y'all will have time to schedule
2 the depo as soon as possible.

3 So I'm not going to put an arbitrary date
4 on y'all for a status report. I just think we are
5 all incentivized to move as quickly as we can. So
6 tell me when the wheels come off and I need to order
7 a depo before anyone I'm not already ordering a depo
8 for.

9 Is that clear enough? I know we are in a
10 muddy situation and I'm trying to make the most of
11 it.

12 MR. McKEEBY: Are you preparing an order
13 with all of this?

14 THE COURT: I'm preparing an order for the
15 folks I know should have to sit for a depo, the
16 one-hour depo, could be by Zoom.

17 And I can say, by my count, those
18 individuals would be named Burdine, Conlan,
19 Kleburne, Hudson and Lacore.

20 And then Lacore is going to be worded a
21 little bit differently, which is to the extent
22 Lacore will not be a live witness at trial, then sit
23 for a one-hour depo.

24 MR. McKEEBY: And can you remind me where
25 we ended up on Conlan and Rutherford? Who were out

1 of town?

2 THE COURT: I think that the preference
3 from Carter's team was because July 8th is after
4 they rest, but before the case is over, that they
5 would take those witnesses out of turn and would
6 conditionally rest, whatever date that is, subject
7 to taking Rutherford and Conlan.

8 Am I misstating that?

9 And I can't remember if we talked about
10 subpoenaing them directly. I don't know if we had a
11 conversation on that, or if you will accept a
12 subpoena for them because they are current
13 employees.

14 I don't know their status with regard to,
15 like, CBA issues and Union issues.

16 MR. GILLIAM: I believe they are both
17 current employees.

18 MR. McKEEBY: That is my understanding.

19 THE COURT: Okay. If that changes, if you
20 can't work through that, let me know. And if I need
21 to make an order, or, you know, honestly, if they
22 can't accept a subpoena, then you go find them and
23 subpoena them. And you know I will ask you to
24 provide information, location, if they are
25 habitually on the move, like flight attendants.

1 MR. McKEEBY: These aren't flight
2 attendants.

3 THE COURT: Okay. Thank you.

4 Okay. Anything else on witness issues?

5 Can I say just a note right quick,
6 assuming we have some witnesses to take by
7 deposition, there is an awkwardness that lawyers
8 usually flag for me only after we have played a
9 video of a depo, or after we have read the
10 transcript, and you will see in the video, they will
11 say, We have handed you what is marked as Exhibit 2.

12 That is not Trial Exhibit 2, right? It
13 may be a trial exhibit, but it wasn't Exhibit 2.

14 So there are two ways to handle that.
15 Method 1 is that you can use a cross-reference chart
16 that you make for me.

17 So for the Conlan depo, Conlan Depo
18 Exhibit 1 equals Trial Exhibit 23.

19 If you make that cross-reference chart, I
20 can read it to the jury, before we do that depo. I
21 will say the next witness is by depo and give it the
22 same weight as if they are live. By the way, the
23 numbers don't match up. I will give you the
24 cross-reference list. And I can provide that to
25 them back in the jury room as well. That is the

1 only way you can handle a video depo.

2 There is a second way you can handle a
3 paper depo, which is, if y'all are in agreement and
4 y'all are just reading the depo, you mark out
5 Exhibit 2 and put in Exhibit 23. And then it is
6 read live fire to match up to the trial exhibit
7 numbers.

8 So, you know, choose your own adventure.
9 But if you are reading a paper depo, you have got
10 two choices. If it is a video depo, you can't edit
11 out someone voices over 23. That is awkward. We
12 don't do that. You can't edit a video like that.
13 You can mark up paper like that.

14 Any questions on that?

15 MR. McKEEBY: No questions on that.

16 On the order, I may be wildly optimistic
17 on that, but I'm somewhat hopeful that Carter's
18 counsel sees the light and decides there is better
19 uses of their time than deposing these witnesses.
20 Perhaps the order could be written in a way that
21 they are not compelled to appear unless --

22 THE COURT: If Carter chooses to depose
23 them, I can put that language in. It is Carter's
24 choice. I can put in that caveat.

25 All right. Any other issues on witnesses?

1 All right. I will do my order. And y'all
2 do what I have asked you to. Keep me posted on if
3 the wheels come off and I need to order more depos
4 than the ones I am going to do in the order today.

5 So the only other thing I have is just a
6 few odds and ends on trial procedure.

7 I said this earlier, made a reference to
8 it or an allusion to it, we are supposed to speak in
9 code when we are doing objections in front of the
10 jury.

11 The reason why is, they are the triers of
12 fact and objections are legal, gatekeeping issues,
13 right? So we don't want to say, your Honor, that is
14 hearsay, it is an out-of-court statement because it
15 came from a declaration, blah, blah, blah.

16 Don't do that. It is taking the factual
17 triers over here and making them hear all of the
18 legal mishmash that is only confusing.

19 So speak in code. Ideally, give me a
20 number, right? Objection, 402. Right? It is not
21 relevant.

22 In trial, you have got so many things
23 going on that you may not be able to come up with a
24 number handily, give me a word: Objection,
25 relevance; objection, hearsay.

1 If you get out more than one or two words,
2 then it is a speaking objection. That is a side
3 show. So ask for a sidebar for your side show,
4 right?

5 If you can't actually come up with a
6 number or a word or two, come over at sidebar and
7 explain it.

8 There are a lot of times where you can
9 speak in code to me, I know exactly what you are
10 talking about, right? It is hearsay. And I don't
11 ask for a response in open court. I think of a
12 response that might say, you know, that is present
13 tense, mental impression, I'm going to overrule
14 that. I'm not going to say that. I'm just going to
15 say, overruled.

16 If you want a sidebar to hash through it,
17 whether you're raising the objection or have a
18 really strong argument against the objection, just
19 call for a sidebar. It is fine. Just note that
20 that time counts against you.

21 I try to handle my sidebars as quickly as
22 possible. I don't keep people over there with
23 academic arguments, but we get right to it.

24 So it will take all of our effort to be as
25 efficient as possible on the sidebars. Most of my

1 sidebars last 20 or 30 seconds. And it takes longer
2 to walk over to them than it does to actually get
3 out what you want and to get a ruling on it.

4 When you are at the sidebar, though, don't
5 speak in code or numbers, just talk to me in
6 English. But you can be as fast as we can
7 transcribe it.

8 And so at the end of this, I'm going to
9 see if y'all can come over and you can see what the
10 microphone setup is. I'm going to ask for one
11 lawyer per side. We can't fit all of us over there.
12 But it will be three lawyers. I will be there.

13 And then the static will come on. I
14 should turn that static on and so y'all can hear.
15 We will talk at a quiet level, but not a whisper,
16 because we have got to hear each other and the
17 microphone has to pick us all up for the record
18 purposes.

19 I will remind you, like, I know I put you
20 on time limits, please don't speed. If you speed
21 and you start clocking 250 words a minute or more,
22 we can't transcribe it. It is just impossible to
23 get a clean transcript. And so then we have to go
24 back to the audio and triple check every word, and
25 that gets cumbersome.

1 So keep in mind if the reporter can't keep
2 up with you, the jury can't either. It is them that
3 you are trying to clearly communicate to.

4 On transcripts, if your clients want any
5 kind of daily copy or realtime, please talk to our
6 court reporter, Kelli Ann, about that before trial.
7 Any request like that have to be lined up in advance
8 because she can't be in here transcribing and
9 someone going back through the transcript, checking
10 to make sure it is accurate.

11 And so if you are wanting realtime or a
12 daily copy, anything other than a copy for an appeal
13 at the end of the case, those are resources that she
14 has to book in advance, so you can't surprise her on
15 the first day of trial and expect to get daily copy
16 or realtime.

17 Okay. And then after this, hopefully, we
18 will get a read from Kevin on if we can see either
19 the big jury assembly room downstairs or the Red
20 River room they pitched as an alternate, in case it
21 is not available on July 5th at 1:00.

22 I'm trying to think of any other issues.

23 Invoking the rule.

24 I assume everyone wants to invoke the
25 rule.

1 Does anyone want do it just now on the
2 record so we can get it out of the way?

3 MR. McKEEBY: We invoke the rule.

4 THE COURT: Okay. Mr. McKeeby, you have
5 invoked the rule.

6 I don't know what your witnesses look
7 like, so help me patrol that, right?

8 If someone walks in, just call for a
9 sidebar, you will tell me, and I will ask the CSO to
10 get them back out in the hall.

11 On invoking the rule, have y'all picked
12 who your corporate reps are --

13 MR. McKEEBY: Yes.

14 THE COURT: -- who are immune from the
15 rule?

16 MR. McKEEBY: Yes.

17 THE COURT: You each get one, right? You
18 are a party, so you each get one. I don't even have
19 to know who it is, but I just know they are immune
20 from the rule.

21 Carter is immune from the rule.

22 Y'all don't have experts. That keeps it
23 simpler. Sometimes people carve out an exception
24 from the rule so that experts can sit in and watch
25 and it makes it easier to watch.

1 We don't need to cover that here.

2 MR. GILLIAM: We also want to invoke the
3 rule.

4 THE COURT: Yes. Well, yes. It is
5 invoked as to one is invoked as to all.

6 I will assume that the Union does, too.
7 That is why we call it the rule, right? It is good
8 to not have witnesses hearing other witness'
9 testimony.

10 Okay. So I mentioned this earlier for
11 objections during opening and closing, if there are
12 things you think that the other side is doing
13 against the rules, please write them on a Post-it
14 note, right? And then let's come up and have a
15 sidebar at the end of the person's opening.

16 If you stop someone's opening -- I trust
17 that y'all wouldn't. But there are lawyers in here
18 that are just so antagonistic that they want to stop
19 someone's flow and object to every sentence during
20 opening.

21 And at the end of pretty much every
22 opening, I say, this is lawyer argument, it is what
23 you just heard. What you will need to do is listen
24 to the evidence, which you haven't heard any of yet,
25 and apply the law, which you haven't heard from me,

1 because it is not the end of the case.

2 But if there are issues that you want to
3 bring up, please flag those.

4 If I see you walking over a limine issue,
5 I may stop you in the middle of your opening. So
6 please be mindful of our limine issues and do not
7 talk about the things we said to not talk about.

8 And then save any arguments you have on
9 the side for the end. If I need to do a curative
10 instruction, I will. If I need to declare a
11 mistrial, I will do it. That is fine by me.

12 Okay. So any questions about anything we
13 have covered?

14 I think we have exhausted everything on my
15 list. So tell me what we missed.

16 MR. GILLIAM: Your Honor, I guess we do
17 have a few bifurcation issues. One, we are seeking
18 a reinstatement for Ms. Carter. And also,
19 attorney's fees, I assume will be bifurcated as
20 well.

21 THE COURT: All right. Let's talk about
22 reinstatement first.

23 Well, I will just carve out attorney's
24 fees and make that simple.

25 Attorney's fees, I always handle with the

1 standard federal civil model of 14 days after a
2 final judgment, then I require the movant, who might
3 get attorney's fees, to file a motion with the
4 supporting affidavit.

5 So no need for lawyers to get on the stand
6 and talk about the reasonableness of the fee.
7 Fortunately, in federal court, we can carve that out
8 on the back end and not tie up the jury with that.
9 And then I just get cross breaking from the other
10 side on, they are not entitled to fees, or they are
11 but their fee bill, these things appear to be
12 non-recoverable. So we will handle that in
13 post-trial briefing.

14 Talk to me about reinstatement.

15 Reinstatement, are you talking about,
16 like, an equitable remedy? Or does the jury --

17 MR. GILLIAM: Reinstatement of Ms.
18 Carter's employment. I guess the same would apply
19 to the scenario where front pay could also be
20 involved as well.

21 So I think that would fall within the same
22 bucket of remedies.

23 There are scenarios maybe where Ms. Carter
24 couldn't get reinstatement but in lieu of
25 reinstatement, could get front pay. So that would

1 be part of the same conversation.

2 THE COURT: All right. What is your
3 proposal for that?

4 Are you proposing we stick around and see
5 what a jury verdict is and then have additional time
6 afterwards to try, depending on the jury verdict,
7 for reinstatement issues?

8 MR. GILLIAM: Right. Separate
9 proceedings, your Honor.

10 THE COURT: Understood.

11 So, yeah, let me ask thoughts on the
12 Southwest front. Part of this is a premature
13 conversation until we see what the jury says.

14 MR. McKEEBY: I mean, I have seen this
15 done but not that way. But it's similar to
16 attorney's fees, in that it's just kind of done by
17 post-trial motion. And the judge makes a
18 determination of whether front pay is appropriate
19 and whether reinstatement is appropriate.

20 And the parties just brief it, as opposed
21 to -- I don't know what additional evidence could be
22 offered on those issues. They are equitable
23 remedies that are determined by the Court.

24 And so typically what I have seen is just,
25 in employment cases, it is just a matter of

1 post-trial briefing, just like attorney's fees,
2 quite frankly.

3 THE COURT: Sure.

4 Have you seen affidavits being used? For
5 example, affidavit from HR saying, blah, blah, blah.

6 MR. McKEEBY: Yes. I think so.

7 THE COURT: I'm just trying to make sure,
8 like if I -- I prefer to handle it that way for the
9 same reason as attorney's fees, right? You can have
10 an affidavit with attorney's fees in lieu of a live
11 witness. And the attorney is the own expert that
12 says, I have done this 20 years, my fee was
13 reasonable and necessary.

14 What I will probably do is say, we should
15 all think about this as trial progresses and
16 think about if there is anything -- I can see plenty
17 of evidence needing to come in, in affidavit form.
18 I don't know that I have to take that affidavit form
19 and make it live fire for them unless there is
20 something that you tell me about that.

21 But if there is any need for that, then we
22 could talk through it.

23 MR. GILLIAM: Your Honor, if there is some
24 sort of claim that reinstatement is not feasible, I
25 think that is possible testimony.

1 THE COURT: Well -- and so your point on
2 that would be, if their HR person says reinstatement
3 is not feasible, you would want to take a shot at
4 that HR person rather than just saying, oh, well
5 based on the affidavit, we don't like it.

6 MR. GILLIAM: That's right.

7 THE COURT: I get that.

8 Let's all think about it as trial
9 progresses. I don't think I can rule on that right
10 now on what form it is.

11 MR. McKEEBY: Respectfully, the
12 feasibility of reinstatement is not an HR person
13 testifying, you know, we don't have a spot for her.

14 It is the Court making an assessment,
15 based on the weight of the evidence and the facts as
16 to whether or not the equity permits or should --
17 should require reinstatement. So it is not an
18 evidentiary issue.

19 Again, we can brief it, if necessary.

20 THE COURT: Sure.

21 MR. GILLIAM: But I don't know that a HR
22 person is going to be able to say it in this
23 context.

24 THE COURT: And I appreciate you flagging
25 it. It is something we need to think of as the

1 trial progresses. I will keep my thinking evolving
2 on it, make sure I investigate it.

3 So when the time comes to talk about
4 reinstatement, then I decide wisely at that point in
5 time whether it is by affidavit or live testimony.

6 Any other issues?

7 This is going to be a fun case. I'm
8 looking forward to it. I came here to try cases,
9 not settle them. So thank you for giving us an
10 interesting case to try.

11 So we will just do the path forward we
12 talked about. I will get the order out today on the
13 one-hour depositions. And then y'all work on exchanging
14 information on location.

15 And then let me know if there are
16 additional folks who I need to order to sit down for
17 a deposition because it doesn't look like they can come to
18 trial. And then y'all tell me deposition page and
19 line designations for folks who are just going to
20 appear by deposition. And then I will work through those
21 objections.

22 MR. McKEEBY: I did have one other
23 question.

24 At trial, will you want both defendants
25 here or will one of the defendants be at that table?

1 THE COURT: That is a great question.

2 I'm going to let y'all pick. If y'all can
3 fit around that table, great. But you are going to
4 have corporate reps there. So six chairs around the
5 table, you are probably going to want to split up
6 into two. It's just my guess.

7 After I go off the record, then let's come
8 over here and make sure we can test out a sidebar.
9 One lawyer for each side come up and we will just
10 practice how loud we talk to where we hear each
11 other people but the people in the box can't hear.

12 I will try to find Mr. Frye and see if
13 he's got a beat on looking at the jury assembly room
14 and/or the Red River room.

15 Anything else?

16 All right. Thank you.

17 Y'all are great lawyers and this is going
18 to be a fun case. We get lots of cases where the
19 lawyers just don't know how to be officers of the
20 court. And y'all know how to represent your clients
21 zealously and be officers of the court.

22 Y'all are a tribute to the profession.

23 So this is going to be great to try.

24 So with that, I will go off the record.

25 And let's come over here and we will live-fire a

1 sidebar.

2 (Proceedings concluded at 12:24 p.m.)

3

4

5

6

7

8

9

10

11

12

13

14

15

16

17

18

19

20

21

22

23

24

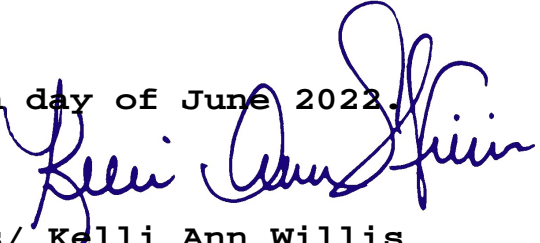
25

C E R T I F I C A T E

I, Kelli Ann Willis, RPR, CRR, CSR
certify that the foregoing is a transcript from the
record of the proceedings in the foregoing entitled
matter.

I further certify that the transcript
fees format comply with those prescribed by the
Court and the Judicial Conference of the United
States.

This 19th day of June 2022.


s/ Kelli Ann Willis
Official Court Reporters
The Northern District of Texas
Dallas Division

<hr/>	20 30:24 35:2 90:21 92:21,25 104:6 176:1 183:12	45 138:8 141:23 144:11 167:21	8:45 60:21
<hr/> (
<hr/> (a)(1)a 114:4	2012 109:25	48 144:3 165:17	8th 119:7,9 161:3,7 162:17,18 163:11 171:3
<hr/> 1	2017 94:24 95:8	48-hour 145:5	<hr/> 9
	2020 91:13 112:20 116:24 117:5	4:30 22:22	
1 11:22,23 42:8 90:21, 24 105:7,8 114:5 155:15,25 156:9,13,14 167:13 169:24 172:15, 18	2021 117:9,12	4th 162:3	9 7:17 100:2
10 6:14 7:19 59:25 75:21 76:3 77:8 84:6 89:11 100:6,16 104:7,8 165:14,15	2060 111:14	<hr/> 5	923 40:5,9
	23 172:18 173:5,11	5 90:24 92:16,17 100:2, 14,16,21 101:10 145:17 148:19	953 40:5,9
10-minute 67:11 89:9 100:8,21	24 76:5 84:8 165:8,12, 17	50 51:5,11,12,16 52:8, 17 58:4 61:11 83:12	9:00 60:22
100 111:6 126:24 155:8 158:7 159:17	24-hour 101:12	556 5:6,17 15:13 17:1 27:2,16,25 31:6 35:10 36:19 37:5,7 89:5 90:14 94:4 143:16 144:21	9:30 105:6
100-mile 119:21	25 35:5 51:1,7 58:4 83:12	556's 26:22 90:11,13	<hr/> A
10:30 100:5,14	250 176:21	5:00 47:5,7 101:9 147:5	ability 54:21 142:6 149:23 150:1
10:40 89:12	26 114:2,10	5:10 101:10,14	abortion 50:20 54:17, 19 55:16 56:20 60:6 61:18 75:24 76:1 77:14 78:5,22 79:25 82:8 83:1 94:22 95:5 97:3
11 79:23 80:21 84:13	29 36:14 40:14	5:30 101:11	abortion-related 51:14
11th 162:2	2:30 100:9,14	5th 11:23 12:8,9,12,21 51:21 53:19 89:21 117:8 161:9,18,21 177:21	abortions 78:23 82:2,3
12 26:16,20 63:19 64:4, 5 68:10 75:1 102:2 129:18,20	2nd 112:20 116:24,25	<hr/> 6	absence 150:14
12:24 187:2	<hr/> 3	6 103:24	absent 91:23 143:4
13 81:13,16 84:14	3 109:25 122:14	6:00 103:12 107:15	absolutely 19:12 88:8
14 181:1	30 36:22,25 40:12 42:6 52:25 55:19 59:14,15, 17 61:3,4,25 62:22 63:3,15,21 67:21 176:1	6th 129:24	academic 175:23
14-person 51:5	30(b)(6) 139:24	<hr/> 7	accept 119:25 138:5 139:19 142:6 144:4 145:8 146:24 147:18 148:14,17 150:1 158:10,12 171:11,22
15 119:19	30-minute 61:5	7 8:19 54:23	acceptable 132:22
152 99:16	30-minutes 63:16	<hr/> 8	accepted 146:20
17 84:16 87:3,7 88:17	30th 117:5	8 13:15 15:8 19:21,24 21:4 104:1 107:17	accommodating 128:6,15 129:2
17th 161:9,18,21	317-cv-2278-x 5:5	806 104:14 106:1	accommodation 85:4 164:14,17
1992 40:5	3:45 100:10,14	85447 109:25	accommodations 118:24 164:12
1:00 89:23 90:8 177:21	<hr/> 4	8:30 7:13 104:23 123:14	account 40:24 41:18
1st 119:7,8 161:2,7	4 122:11		accounts 41:8
<hr/> 2	400 51:10		
	402 174:20		
2 84:6 172:11,12,13 173:5	408 122:24		

accurate 99:6 177:10	advised 139:12	alleged 29:22	63:11 138:18 154:23 160:2
accused 78:14	advisement 40:13 116:2	allowed 132:17	apparently 58:17 161:25
acknowledgement 18:5	affects 45:25	allowing 87:8 117:24 118:6	appeal 177:12
Act 16:13	affidavit 181:4 183:5, 10,17,18 184:5 185:5	alluded 106:16	Appeals 62:16
acting 43:21	affidavits 183:4	allusion 174:8	appearance 118:20
action 5:4 6:4 33:15 50:6	affiliating 92:18	alternate 89:24 177:20	appearances 5:8
actions 30:1	affiliation 77:1 91:6,11	alternative 90:7	appearing 137:22 152:12
activities 77:2 92:1 95:4 97:2	affirmative 67:16	amenable 57:25 108:16 115:17	applicable 17:25
activity 16:13 91:6 96:1 99:18	affirmatively 74:13	amend 15:22 18:7 19:19 112:21	applies 36:21 168:8
actor 36:6	afield 47:1	amended 10:1 13:3,11 15:6 16:2,7,21 19:10 20:1 26:6 49:20,21 116:14 118:3	apply 82:10 179:25 181:18
actual 117:10	afoul 150:4	Amendment 24:12,14 92:10	approach 54:14 100:13,14
acute 133:19	afternoon 12:4 61:7,8 100:9		arbiter's 123:10
Adam 5:18	afterward 30:2	America 5:6 24:9	arbitrary 170:3
add 10:12 18:15 32:17 112:7 113:20 161:19	agree 15:13 21:15 27:11 32:6,25 33:3 35:14,18 46:7 60:11 109:1	Americans 91:15	arbitration 122:20 123:5,9
addendum 79:14	agreeable 109:11,16 168:17	amount 25:4 30:17	area 31:10 34:19 78:12, 16
addition 112:14	agreed 21:18 60:16 110:14 146:20	amounts 69:22	areas 76:20,21 78:12
additional 57:15 110:17 117:21 149:18 158:23 182:5,21 185:16	agreement 8:6 17:11 18:1 27:6,7,14 35:9 36:3 68:16 108:16,22 122:18,24 123:4,23 124:5 125:4,6 135:25 136:6 173:3	ample 38:1	arguably 15:7
address 8:3 25:18 141:6 159:12,14	agreements 110:5	analogy 91:19	argue 22:13 30:9 99:16 123:16
addressed 32:8	agrees 27:2,19	analysis 128:5	arguing 28:5 85:10
addresses 49:22 147:23,24 150:2	ahead 47:9 89:4	analyzing 91:18	argument 16:25 26:21 31:1 36:17 37:7,8,16 38:16 42:11 45:12,13, 17 48:15 99:8 102:4 104:25 105:13 113:23, 24 123:4 126:6 129:24 175:18 179:22
addressing 8:6 46:17	aids 63:10	anchored 34:13	argumentative 84:19 85:5
adjudicated 89:2	Air 11:14	and/or 186:14	arguments 21:13 42:22 60:22 87:8 175:23 180:8
admission 110:21	Airlines 5:6 34:21 94:2, 3,25 140:6 143:11	Ann 177:6	arise 141:1
admit 10:14,22 43:2 110:21	airplanes 150:22	announced 66:9	arises 80:17
admitted 10:13,18 49:6 105:16 110:13	akin 14:15	annoying 166:22	Arkansas 161:13
advance 9:12 54:2 177:7,14	alert 114:5	answers 59:20 61:19 163:25	
advantage 152:10	align 59:2	antagonistic 179:18	
adventure 81:24 173:8		anticipate 141:10	
advice 67:15,17,22		anticipation 150:15	
		anyone's 85:15	
		anytime 9:18 76:12 128:16	
		apologize 6:1 61:21	

Army 11:14	August 117:12	bar 80:10,17	big 51:9 121:19 177:19
arrangement 150:18	authenticity 110:15 111:5	bargaining 17:10 125:4 146:25	bill 181:11
assembly 51:9 89:21 177:19 186:13	authority 78:17 138:5	Barnett 154:11,18 157:8 158:14,15,16,19, 21,22 159:4	bit 6:3 7:25 28:9 44:4 46:6 50:21 52:12 57:9 63:25 64:22 65:10 66:19 162:22 165:20 166:6 170:21
assertion 86:19	authorized 119:25 139:18 146:24	based 10:2 15:7 56:13 58:3 65:19 68:5 75:25 76:10 77:17 78:11 85:3 101:17 126:7 139:11 157:24 158:2,5 184:5, 15	blacked 163:15
assessed 125:1	availability 120:7 122:12 126:14,17 141:5 157:16 159:23 168:23 169:4	basic 53:2,3	blackouts 163:14
assessment 184:14	avoid 47:24 67:7 78:5	basically 15:20 44:17 65:11 81:16 83:25 93:19 100:4 102:2	blah 174:15 183:5
assist 43:25	award 20:25 73:17	basis 36:20 73:7 85:24 121:11 122:20	bland 169:11
associating 88:2	awarded 14:10,14 16:17 36:4	baton 46:19 48:13 54:4 108:5,13 109:6	blind 115:15 155:21
association 99:19	aware 7:21 116:23 136:2	bear 49:2	blood 7:8
assume 134:18 168:17 169:16 177:24 179:6 180:19	awkward 173:11	bearing 82:6	blow 55:10,11 100:16
assumed 134:15	awkwardly 8:11 52:14 66:5,10	beat 9:15 62:11 186:13	blowing 101:11
assuming 103:5 157:13 172:6	awkwardness 108:4 114:19 172:7	beeline 82:18	board 29:20 45:22 140:2 149:16
assumption 59:3	B	beginning 102:7 115:21 117:9	Bobby 5:10
at-will 142:22,23	back 10:19 13:18 15:19 20:22 21:17 23:16,24 24:5 25:24 26:14 29:9, 23,25 30:23 36:15,22 38:4,6 41:15,21 42:7 44:4 51:25 52:9,12 54:23 55:7 60:15,17,21 67:11 74:5 75:17 79:19, 24 87:23 89:9 91:8 97:16 105:10 110:12, 16,22,23 111:6 122:2 127:7 135:14,17,23 137:25 144:3 163:7 166:20 172:25 176:24 177:9 178:10 181:8	behalf 126:10 138:6 139:24 150:2	bomb 54:14
Atlanta 161:25	background 55:17	behavior 29:23	Bonda 99:20
attained 37:13	backwards 28:8	belated 46:16	Bonta 91:16
attempt 35:7	bad 30:11 36:6 151:19	beliefs 60:5 76:11	book 141:2 177:14
attempted 103:5	balances 29:20	believes 94:22	booked 90:8
attend 97:22 101:9 131:1 145:7 169:21	ball 147:9	bench 11:17 60:9,15	bookend 127:10
attendance 28:20 119:3,16 156:6	ballot 76:14 77:20 78:15,17,20 87:24 91:4	benefit 12:15 22:10 26:13	bound 83:14
attendant 47:25 94:2 141:21 145:1 151:17		benefits 37:1,12 38:11, 13,22 39:4,19 40:22 41:1 161:16	box 64:7,15,17 66:8 68:2 69:16 100:2 186:11
attendants 94:3,25 97:21 137:16 138:13 141:1 147:1 171:25 172:2		Bible 94:24	boy 79:1
attended 95:1		bifurcated 180:19	breadth 167:8
attention 107:12		bifurcation 180:17	break 23:15 67:10,11 75:19 89:4,9 100:2,4,23 101:2,18 151:22
attorney 145:7 183:11			breaking 72:10 153:11 181:9
attorney's 180:19,23, 25 181:3 182:16 183:1, 9,10			breaks 100:6,8 101:23
auctioneer 66:14			Brendon 160:10
audio 176:24			Brett 138:16
Audrey 31:8			Brian 5:15 43:23 138:16

brick 68:7	California's 91:14	131:11 164:2 173:22	caveat 135:19 173:24
bridge 34:24 92:19	call 12:19,20 14:14	178:21 180:18 181:23	CBA 148:17 171:15
briefing 45:10 46:4	21:16 48:22 54:23	Carter's 13:16 34:21	cetera 32:5 38:4 45:17
47:12 48:18 181:13	55:21 56:4 60:17 62:3,	37:2 38:9 39:17 44:2	96:2 125:17 141:12
183:1	15 73:8 93:7 96:5	63:7 82:4 88:15 90:9	150:3
briefly 28:13	100:23,24 101:2 107:11	95:6 98:6 107:15	chairs 186:4
briefs 14:14	108:14 113:7 114:5,18	108:25 111:23 112:3	challenge 148:5
bring 35:16 45:19 51:1,	121:17 132:10 136:21	125:16 126:18 162:11	challenges 50:17,21
5 52:17 64:1 133:10	143:10 154:4 155:5,7	171:3 173:17,23 181:18	51:13 60:4
167:6 180:3	157:22 175:19 178:8	carve 126:1 166:23	chance 22:18 23:8
bringing 33:21 133:11	179:7	178:23 180:23 181:7	122:18,24 123:4,23
brings 160:1	called 39:23 43:23	carving 31:11	124:5 125:6
broaden 19:24	62:10 94:4,11 118:7	case 9:18,19,20,25	change 24:19 28:3
broader 123:4	132:16	12:6,7,8,18 13:7,10	51:3 82:1 96:24 103:6
brought 20:23 40:24	calling 122:2 128:8	14:3,5,13,16 16:11,12,	118:25
bucket 120:9,18 122:5,	135:17,23	20 17:8 19:9,10 21:9,15	changed 19:11 102:23
11,14 129:4 131:9,10	calls 5:4	34:5 37:9,17 39:23	136:4
137:15 154:6 155:4,15,	calm 7:8	40:5,23 41:4 42:15 45:8	changing 101:23
25 156:9,13,14 157:17,	candidate 75:25 78:6	50:19 51:2 55:6 58:5	characterization 45:7
21 158:17 159:6 160:1	88:5,6	60:7 65:21 66:17 67:14	charge 6:19,20,23,24
167:13,14 169:24	candidates 87:23	69:8,18 70:20 76:25	14:24 15:1 21:18,19,22,
181:22	cap 20:23	82:2,5,6,8,10 83:1,4	24 22:2,9,14,19,23
buckets 45:24 149:8	capacity 43:21 44:5,12	85:2,10,11,19,23 90:8	23:1,3,9,12,20,22 24:23
153:22,23	164:9	91:13 93:17,24,25	25:7,8,11,13 64:12,14
bullet 92:24	caps 20:14	97:14 102:13 109:20,24	68:14 102:9,11
bumping 58:4	Caravan 44:21	110:7 113:8 114:7	Charlene 94:1 124:18
bunch 51:13 52:7	card 56:1	115:21,22 117:2 119:5	chart 172:15,19
burden 116:16	cards 18:23	125:18 130:14 132:24	chasing 147:11
Burdine 111:24 120:11	care 17:1 109:2 127:9	133:15,21 134:1 136:21	check 65:7 92:6 141:6
154:11,18,20 155:14	135:6	138:1 141:21,25 142:15	142:14,16 176:24
157:7,10 170:18	careful 80:20	146:15 148:17 151:22	checking 177:9
burn 62:23	Carter 5:5 13:15,24	160:9 168:16 169:21	checks 29:19
burned 121:21	15:8 21:3,16 26:15,20,	171:4 177:13,20 180:1	Chief 89:19 90:1
business 97:25	22 27:1,15 28:1,20	185:7,10 186:18	choice 173:24
109:13,19 110:3	29:9,10,22,24 30:15,17,	case-in-chief 132:11,	choices 173:10
bust 55:5,6 80:18,19,22	18,23,25 31:4 32:2,19	17 134:17	choose 81:24 173:8
busting 55:2 82:18	34:14,19 35:5,6 36:15,	cases 12:10 14:9 17:8,	chooses 173:22
	16 38:1,13 39:3 41:14,	12 24:6 37:11 44:22	Christian 94:22
	15 42:16 43:17 44:15	61:23 69:19 92:3,11	church 77:3 92:6,8
	45:1 47:7 49:7,8 75:21	114:24 115:11 143:13	circle 55:7 79:19,24
	76:3 79:22 81:13,16	151:9 182:25 185:8	Circuit 14:3,13 16:20
	83:9 84:16 93:1 94:1,	186:18	19:9 39:23 40:6 53:1
	10,12,21 95:2,7 96:24	cast 78:11,20	
	98:5,15 105:7 108:5	casting 78:15	
	112:7 113:11,15 118:13	cat 79:16	
calculation 134:21	120:19 122:2,14,16,17	catching 63:11	
California 48:1	123:15 124:18 125:6	categories 45:24	
	126:3,11,19 129:15,18	category 40:17 123:20	
		cattle 12:18	

C

76:25 91:5 92:2,20 93:15	21,22 75:1,3,16 99:24, 25 100:20 101:20,25 102:14 109:4 121:16	company 40:1 141:20	47:23 117:17,21
circuits 14:10	clocking 176:21	comparator 42:14 46:9,23	confer 132:9
circumstance 136:4	clocks 66:4 74:13	comparators 42:15,17	conference 5:7,22 6:10 11:25 14:24 15:1 22:14,19 23:2,3,12,20, 22 24:19,23 25:8,11 64:15 79:20 102:9
circumstances 19:11	close 50:9 52:8,11 65:8 68:19 80:2 102:6 136:11,18 138:25	compel 141:21 142:9 153:13 156:5 169:20	conferences 6:23,24
circumvented 144:12	closed 9:9 23:5	compelled 173:21	conferring 106:17
citation 109:20,24	closing 68:10,12 86:11 102:4 179:11	compelling 91:14,24, 25	confirming 6:16
cite 40:2	Cloutman 5:19	compensate 73:17	conflict 135:15
cited 14:7,13,16 16:20 45:8 99:20	cluttering 133:21	compensatory 17:15, 25	confusing 174:18
cites 14:9	co-comparator 46:22	complaint 13:3,4,11 15:6 16:3,7,22 17:5 19:10 20:1 108:12 164:2	Conlan 120:12 157:14 160:24 161:5,6 162:16 170:18,25 171:7 172:17
citing 47:11	co-defendant's 75:15	complaints 68:7 101:10	Conlon 111:24 160:10
civil 5:4 12:7 24:14 50:9 51:2 61:23 93:25 181:1	coast 139:6	completion 126:9	conscious 41:23 79:8
civilization 83:4	code 104:12 105:25 174:9,19 175:9 176:5	compliant 138:8	consent 13:21,22 15:14 18:13
claim 13:1,12 14:11 17:9 27:24 30:3 183:24	collateral 37:1 39:15 71:15,18	complicated 143:8	consenting 20:2
claims 13:25 27:22 44:19 49:7 125:13 126:2	collective 17:10 125:4 146:21,25	components 95:18	consideration 34:22 60:3
clarification 124:14 159:5	collectively 75:4 146:10	computer 10:24	considered 38:5
clarified 24:12	Colorado 132:3,7 139:4	conceptual 37:15	constant 43:13
clarify 49:11	columns 10:12	concern 15:5 32:21 47:19 82:19,22 87:21 96:18 97:18 99:3,14 107:4 115:8 116:7 119:10	Constitution 24:10
clarifying 20:17	comfort 12:17	concerns 61:23 76:14 82:20 86:24 87:1 90:13 93:3,23 98:5,12,23 116:6 119:17 134:13	constraints 50:10
clean 102:24 176:23	commit 50:23	concerted 43:16	construed 18:4
cleaning 8:15	commitment 70:15	concluded 187:2	consuming 64:7,11,12
clear 7:3 120:10 128:8 145:11 170:9	Committee 97:24	concrete 71:12	contact 6:8 8:12 143:5, 10 144:18,22
clearing 145:13	communicate 97:10 144:22 155:18 177:3	condition 128:18	contemplated 154:7 157:3
clerk 65:20	communicated 141:11	conditional 136:10,11, 17	contemplating 129:11
clerk's 56:3 89:19	communicating 155:23	conditionally 128:12 129:5 130:20 163:12 171:6	contend 29:14 95:16
clients 53:8 177:4 186:20	communication 134:20 150:17	conduct 16:18 27:11	content 95:13 166:1
clinic 56:20	communications 31:8,21,23,25 32:2,4,9, 13 33:9,14 34:6 147:23		contested 13:15 15:8 21:4 27:21
Clinton 31:2 32:25 87:17			context 17:10 71:13 77:1 87:14 91:21 114:11 123:18 184:23
Clinton/trump 31:17			continue 125:23 140:9
clock 7:4,12 59:9 65:9, 12,17 66:23 69:23 70:16,22 72:4,25 73:9,			

continued 117:18	corporate 53:8 70:16 112:4 178:12 186:4	124:6,14 125:19 127:20,25 129:2,12 131:3,7,20,23 132:4,23 134:18 135:22 136:16 137:7,10 138:12,25 139:7,14 140:7,14,18 141:8 142:7,16 143:19 144:8,24 146:6,14 147:4,20 148:1,9 150:4, 8 151:8,13,18,21 152:14,22 153:16,24 154:17,20,25 156:7,13, 16,21 157:5,11,18 159:16,22 160:3,25 161:4,11,19 162:10,15 163:3,6 164:18 168:12, 18,25 169:10 170:14 171:2,19 172:3 173:22 175:11 177:6 178:4,14, 17 179:4 180:21 181:7 182:2,10,23 183:3,7 184:1,7,14,20,24 186:1, 20,21	critically 121:6 cross 21:3 70:3 129:21 133:15,21 134:6 136:1, 7 181:9 cross-examination 69:14,24 75:14 cross-examining 108:24 133:6 cross-reference 172:15,19,24 crowd 41:19 42:1 crucial 125:13,18 crux 28:1 CSO 178:9 cumbersome 11:1 176:25 cumulative 72:18 73:19 curative 180:9 current 132:6 139:9 148:15 160:6 163:22 171:12,17 cut 54:2 84:6 101:15 106:8 107:2 154:25 166:13 cutoff 117:1,4,15 153:17 162:17 cuts 83:6 cutting 106:7
continuing 71:5 145:24	corporation 142:19, 21,24 144:9,10 146:7	correct 43:8 48:11 68:12 107:22 127:24 131:6 140:17 corrected 138:23 counsel 35:7 52:5 86:2,16 102:20 108:3 143:15 144:19 173:18 count 35:24 63:17,22 64:4 66:11 101:7,25 102:3,11 170:17 counted 64:6 counter-designations 165:2 country 147:11 counts 63:25 175:20 couple 35:4 115:3 130:23 135:1 136:20 137:25 court 5:2,3,4,11,16,20 8:2,10,17,20,23 9:12 10:4 14:18 15:18 16:19, 24 17:23 18:1,8 19:16 20:9,16,21 25:17 27:18 28:4 29:4 30:4 32:7,12, 16,19 33:7 38:8,25 39:2,21,25 40:3,11 45:2 46:2 48:8,12 49:13 52:20 55:25 56:3 57:4, 19 58:9,12,19 59:6 61:3,20 62:16 63:18,24 64:5,9 65:9 68:12,18 71:9,12 72:1,8,15 73:24 74:2,6,25 76:3 77:16,19 78:7,9 79:6,8,25 80:25 81:5,7,9,23,25 82:5,12, 22 83:19,22,24 84:24 85:1,5,6,8 86:7 87:7 88:20,24 89:11,13,15, 16 90:17 91:13,18 92:20 93:10 94:7,20 95:11,18 96:3,8,16,20 97:11 98:2,9,11 99:8, 12,22 106:23 112:15 113:3,9,14,19 114:8 115:9 116:4,21,25 117:13,22 120:2 122:10	cross 21:3 70:3 129:21 133:15,21 134:6 136:1, 7 181:9 cross-examination 69:14,24 75:14 cross-examining 108:24 133:6 cross-reference 172:15,19,24 crowd 41:19 42:1 crucial 125:13,18 crux 28:1 CSO 178:9 cumbersome 11:1 176:25 cumulative 72:18 73:19 curative 180:9 current 132:6 139:9 148:15 160:6 163:22 171:12,17 cut 54:2 84:6 101:15 106:8 107:2 154:25 166:13 cutoff 117:1,4,15 153:17 162:17 cuts 83:6 cutting 106:7
continuous 161:11	correct 43:8 48:11 68:12 107:22 127:24 131:6 140:17	Court's 82:8 153:22 courtesy 9:5 55:9 147:18 courthouse 12:9 24:24 60:2 142:4 courtroom 51:6,7 courtrooms 111:1 courts 17:14 24:8 42:3 cover 7:15 10:9 11:20 54:3 64:21 156:14 179:1 covered 47:14 90:9 133:7 135:11 167:9 180:13 covering 6:12 COVID 12:15 51:10 cramped 23:17,25 48:25 create 106:20 135:20 creative 90:3 credibility 53:25 criminal 12:6,10 24:13 51:4 67:13 89:20 93:24 critical 44:11 161:25	critically 121:6 cross 21:3 70:3 129:21 133:15,21 134:6 136:1, 7 181:9 cross-examination 69:14,24 75:14 cross-examining 108:24 133:6 cross-reference 172:15,19,24 crowd 41:19 42:1 crucial 125:13,18 crux 28:1 CSO 178:9 cumbersome 11:1 176:25 cumulative 72:18 73:19 curative 180:9 current 132:6 139:9 148:15 160:6 163:22 171:12,17 cut 54:2 84:6 101:15 106:8 107:2 154:25 166:13 cutoff 117:1,4,15 153:17 162:17 cuts 83:6 cutting 106:7
contrary 94:23 113:1	corrected 138:23	Court's 82:8 153:22	critically 121:6
contrast 124:4	counsel 35:7 52:5 86:2,16 102:20 108:3 143:15 144:19 173:18	courtesy 9:5 55:9 147:18	cross 21:3 70:3 129:21 133:15,21 134:6 136:1, 7 181:9
contributing 39:5	count 35:24 63:17,22 64:4 66:11 101:7,25 102:3,11 170:17	courthouse 12:9 24:24 60:2 142:4	cross-examination 69:14,24 75:14
contributions 36:18 37:10	counted 64:6	courtroom 51:6,7	cross-examining 108:24 133:6
control 26:10 119:12 122:8 126:25 127:17 129:14 130:24 131:1 137:22 140:2,4,12,15, 16,21,24 141:16,17 142:18 143:24 144:9 146:10,18,21 149:22 150:6,11 154:15 155:17 156:10,15 157:6 167:24	counter-designations 165:2	courtrooms 111:1	cross-reference 172:15,19,24
controlling 130:9	country 147:11	courts 17:14 24:8 42:3	crowd 41:19 42:1
conversation 130:22 134:16 167:22 171:11 182:1,13	counts 63:25 175:20	cover 7:15 10:9 11:20 54:3 64:21 156:14 179:1	crucial 125:13,18
conversations 8:1	couple 35:4 115:3 130:23 135:1 136:20 137:25	covered 47:14 90:9 133:7 135:11 167:9 180:13	crux 28:1
cooperate 59:11 127:16 128:2 131:5 147:3	court 5:2,3,4,11,16,20 8:2,10,17,20,23 9:12 10:4 14:18 15:18 16:19, 24 17:23 18:1,8 19:16 20:9,16,21 25:17 27:18 28:4 29:4 30:4 32:7,12, 16,19 33:7 38:8,25 39:2,21,25 40:3,11 45:2 46:2 48:8,12 49:13 52:20 55:25 56:3 57:4, 19 58:9,12,19 59:6 61:3,20 62:16 63:18,24 64:5,9 65:9 68:12,18 71:9,12 72:1,8,15 73:24 74:2,6,25 76:3 77:16,19 78:7,9 79:6,8,25 80:25 81:5,7,9,23,25 82:5,12, 22 83:19,22,24 84:24 85:1,5,6,8 86:7 87:7 88:20,24 89:11,13,15, 16 90:17 91:13,18 92:20 93:10 94:7,20 95:11,18 96:3,8,16,20 97:11 98:2,9,11 99:8, 12,22 106:23 112:15 113:3,9,14,19 114:8 115:9 116:4,21,25 117:13,22 120:2 122:10	COVID 12:15 51:10 cramped 23:17,25 48:25 create 106:20 135:20 creative 90:3 credibility 53:25 criminal 12:6,10 24:13 51:4 67:13 89:20 93:24 critical 44:11 161:25	CSO 178:9 cumbersome 11:1 176:25 cumulative 72:18 73:19 curative 180:9 current 132:6 139:9 148:15 160:6 163:22 171:12,17 cut 54:2 84:6 101:15 106:8 107:2 154:25 166:13 cutoff 117:1,4,15 153:17 162:17 cuts 83:6 cutting 106:7
cooperating 105:21 153:8 159:18	cooperatively 167:22	covering 6:12	daily 177:5,12,15
cooperation 57:22	cooperative 149:5	COVID 12:15 51:10	Dallas 132:20 138:20 139:6,11 143:6,12
cooperative 149:5	coordinate 116:14	cramped 23:17,25 48:25	damage 20:14,23,25 damages 12:25 13:4,6, 9,11,18 14:2,6,10,15 16:6,17 17:7,9,15 36:20 37:6,18 40:25
cooperatively 167:22	coordinated 143:22 144:1	create 106:20 135:20	Dan 142:16
coordinate 116:14	coordinating 119:14 143:17 147:14 164:22	creative 90:3	dangerous 55:15
coordinated 143:22 144:1	coordination 9:10 167:18	credibility 53:25	date 12:13 116:21 163:11 169:8 170:3
coordinating 119:14 143:17 147:14 164:22	coordinator 137:2	criminal 12:6,10 24:13 51:4 67:13 89:20 93:24	
copy 10:25 11:17 84:10 102:24 177:5,12,15	copied 120:21 158:1 160:12 164:1	critical 44:11 161:25	

D

171:6	82:4 112:1 136:12	157:24 158:11 162:7	disagree 20:3 45:7
dated 10:13	185:24,25	165:6,9 168:11,15	disagreement 22:5
dates 129:17,22	defense 67:16 75:1,3	169:23 172:7 185:18	27:14 28:11
130:11,13,17,19 160:25	109:7 122:14 128:22	depositions 116:9,18	disallowed 88:12
162:17	136:24	117:21 119:14 157:4	disciplinary 44:8
Daubert 121:7	defining 44:12	designate 109:7	discipline 26:24 42:19
dawn 111:1	degree 95:13	designated 46:9	43:19 44:11 164:5,6,10
day 22:8,20 54:19 65:3,	delay 115:7 116:2	165:14	disciplining 42:18
13,16 70:14 90:5	deliberation 23:17	designations 7:16	disclaim 85:14,16,19
101:20 102:1,7,8	24:3	111:17 165:2,10,20	disclaimer 85:10,24
103:12,13,25 108:5	delve 76:22	167:10 185:19	86:20 87:3 88:17 167:1
109:5,8 117:10 118:6	delved 18:10	designed 113:7	disclose 91:14 112:13
127:3,6,8 128:10 130:3	demand 13:4	detail 29:3 104:9	114:3
134:3,20 142:8 148:23	demonstrate 43:11	details 162:4	disclosure 113:22
163:8 177:15	denied 70:9 122:22	deter 16:17	144:18 158:23
days 35:4 49:21 55:7	dental 38:21	determination 182:18	disclosures 108:1
102:2,5 130:4 131:14	Denver 139:3	determine 96:9	112:2,6,12,22 113:6
181:1	deny 30:6,19 40:15	determined 182:23	114:6,14,15 118:3
DC 95:2	98:19	DFR 44:19	144:20 154:9 160:7,20
de-identify 61:16	depending 41:2 182:6	dialogue 149:3	discover 153:2
deadline 145:18 147:5	depends 47:18	dicey 101:13	discoverable 76:15,17
148:7,8,10,11	depo 7:16 111:17 112:4	differently 170:21	83:5 88:3
deadlines 117:7	113:4 115:2 117:14	difficult 81:7 135:2	discovery 20:21 117:1,
deal 81:8 135:6 162:9	118:8 120:25 121:25	148:2,3 160:5 162:24	3,7,15,17,18,19 153:17
decide 24:6 185:4	153:15 154:22 155:16,	diffusion 150:13	163:23
decided 74:14,16	24 156:2,17,25 158:4,	digging 123:9	discreetly 41:11
decides 173:18	23 163:16,23 164:20,25	dingy 24:18	discrepancy 96:13
deciding 79:7	165:2,19,21,22,23	dire 7:1 31:16,17 50:2,5	discrete 120:8
decision 14:25 33:14,	166:5 167:1,2,9,15	52:19 53:15 54:6 55:19	discriminate 27:2
24 74:9,21 75:10 77:15	168:1 170:2,7,15,16,23	59:16 60:23 61:2,6	discrimination 29:16
125:1,2,5 160:14	172:9,17,20,21 173:1,3,	63:7,14,21 64:3 75:18,	85:3
decisions 34:22	4,9,10 185:17,20	20 83:25 85:5 89:3,18	discussed 7:24 8:14
declaration 174:15	depos 115:14 117:24	90:10 91:23 92:3 93:8,	32:8 58:23 149:20
declare 180:10	165:8 174:3 185:13	11,12,13	discusses 74:1
Deep 109:23	depose 114:1,16,20,22	direct 70:3 129:21	discussing 79:25
default 108:11,21,23	116:3 173:22	directed 23:6 102:10	95:24
defect 145:12	deposed 114:19 138:1,	128:17 133:22 134:2	discussion 48:19
defective 121:6	15 139:21 151:24,25	directly 29:9 30:2 44:8	105:11 111:17 148:13
defects 145:12	152:7 159:9	148:19,20 158:21	discussions 84:18
defendant 5:15 140:22	deposing 173:19	159:12 171:10	123:14
defendants 18:18	deposition 112:19	directors 44:10	dispute 31:10
57:17 67:15,21 74:1,16	116:13,22 117:4 118:12	dire 83:21	disputed 13:8
	120:13 139:17,21		
	151:23 152:5,8,17		
	154:7 155:6 156:6		

distancing 51:11		107:16,18 108:1	ends 65:25 98:4 174:6
distinction 124:4 130:9	E	109:13,18,19 110:2 160:13 161:10	England 24:5,8
distinguishes 131:17	Earl 167:6	emails 120:22 123:13 158:2	English 176:6
District 109:21	earlier 78:22 106:17 159:8 174:7 179:10	embrace 99:17	enlightening 109:21
districts 14:7	early 22:19,24 24:5 69:3,6,9 106:12 117:12	emergency 151:23	enlist 11:15
Dobbs 81:17,18,20,23 92:22 93:2	earnings 39:9	Emlet 126:20	enlisted 11:13
doc 11:3 111:14	earth 25:5	emotional 78:1	entire 163:15
docket 10:5 12:19 50:7	easier 142:22 178:25	employed 137:17 154:1,12 159:6,9	entirety 121:4 162:24
document 26:4,9 47:4 83:22 107:21 110:23	Eastern 109:21	employee 16:16 29:14 37:1 38:22 42:13 43:19 44:6,11,21 122:8 127:23 128:9 131:25 132:7 140:16,23 143:4, 9 157:23 158:9,17 164:5	entitled 17:7 18:6 153:1 181:10
documents 35:8 49:17 110:24	easy 71:14 127:4 154:1	employees 42:10,18 45:17,21 113:5 119:20 127:15 137:21 140:5 142:9,22,23 154:5 157:13 160:6 163:22 171:13,17	entries 10:15
Donald 31:3 34:12 87:17	Edie 154:11	employer 16:15 37:12 40:18 41:1,9	equal 57:2
donate 91:8	edit 165:25 166:3,23 173:10,12	employer's 42:13	equals 172:18
donated 90:25	edited 166:18	employers 43:23	equate 59:10
donating 92:18	Edward 5:19	employment 33:15 34:22 122:19 181:18 182:25	equitable 181:16 182:22
donation 91:10	effectively 18:7 21:5 106:19	employs 126:24	equity 184:16
donors 91:15	efficiencies 68:21	encompass 31:7	error 72:11
downstairs 51:8 177:19	efficiency 63:1 67:3 68:8 69:13 73:21 75:6 82:19	encourage 74:7,9	essentially 48:11
dozen 116:12	efficient 68:15 69:12 70:2 75:5,7,15 101:6 175:25	end 10:17 11:19 27:10 29:23 52:2 62:8 65:2,8, 13 74:17,22 79:19 81:21 84:3 85:19,23 86:12 89:2 93:22 102:7 111:16 115:22 118:6 128:18 130:3 133:8,25 134:20 135:16 142:8 148:22 159:19 163:8 166:14 167:12 176:8 177:13 179:15,21 180:1,9 181:8	evaluate 78:1
draft 6:22 22:8,24 81:18 92:22	efficiently 67:1 106:13	ended 170:25	event 156:22
drag-out 80:6	effort 42:19 43:16 94:16 143:22 175:24		events 153:7
drawing 37:14	efforts 29:8 38:3,6		eventually 24:7
drawn 91:5	eight-person 51:2		evidence 19:1 23:5,13 26:21 29:8,10 30:25 36:17 37:25 39:8,9 42:10,12 43:1,2,9,10,20 44:14,24 47:20,21,24 48:20 71:1,15 85:12 97:6,7 102:3,4 103:11, 13,23,25 105:5,8 110:22 122:23 125:10 127:6 128:21,22 179:24 182:21 183:17 184:15
drive 10:24	Eighteen 87:11		evidentiary 184:18
drive-by 168:25	eighth 7:15		evolving 185:1
drop 54:14	electronic 10:21,23		examination 136:14
dual 150:17	elements 18:14 110:1		examples 47:1
duly-served 145:24	eliminate 37:20		exception 109:19 110:3 178:23
dump 102:23,25	else's 109:14		
duplicative 8:16	email 11:5,6,7,12,16 22:9 65:14,20 70:4,5 81:10 89:1 97:10,13,17 98:13 103:13,24 104:16		
duty 27:21 30:2 44:23, 25 125:13 145:24			

exchanging 185:13	exposure 118:1	falls 123:20	filed 54:5 93:25 105:11 124:17 169:15
exclude 46:17 121:25	expressed 94:12 131:5,25 141:15 149:14,25	family 36:18 37:10,17 38:2 39:4,7 40:17 41:5, 13,15,17,24 66:16 70:19 80:1 84:19 87:9 161:14	filing 126:16,18
excluded 39:12	extend 117:7 121:22	farther 52:12	fill 51:23 109:8
excluding 122:23	extended 99:20 117:11	fashion 79:17 111:16 168:4	final 14:25 113:11,15 127:5,8 128:19 181:2
excuse 59:25 60:2,19 97:23 134:10 136:8	extending 55:9	fashioned 145:13 147:2	finally 14:12
excuses 59:22,24	extension 117:14	fast 176:6	find 33:19 50:8 77:21, 24 148:21 156:24 163:18 171:22 186:12
excusing 133:2	extent 17:23 50:20 123:24 132:10,16 168:9 170:21	fault 155:2	finding 27:4 28:18 51:15 123:10 129:22
execute 140:2	external 29:19	feasibility 184:12	finds 17:23
execution 43:24	extra 27:9 67:2 101:3 104:18 158:3	feasible 183:24 184:3	fine 9:4 25:17 34:20 49:1 51:14 62:20 92:9 101:4 102:24 107:2 108:19 109:2 127:8 128:6 151:3 152:4 158:8 159:1 169:1 175:19 180:11
executive 29:20 137:23 140:2,9	eye 6:8 8:12 109:4	federal 82:5 85:6 98:17 181:1,7	fingertips 26:10
exhausted 180:14	<hr/> F <hr/>	fee 94:12 181:6,11 183:12	finish 51:18 66:13 89:10
exhibit 7:6 9:9 10:1,15, 21,23 31:11 34:13 64:22 65:15 87:20 102:15,19 103:2,4,5,9 105:2,4,7,8,18,19 106:14 107:1,7,9 110:10,20 116:14 123:8,11,18 172:11,12, 13,18 173:5,6	F-R-Y-E 11:10	feel 24:19 25:20 52:22 78:13 82:7 83:1,5,6,9, 11 92:11 115:21 127:12 160:18	finished 65:2 69:8 89:23
exhibit-wise 108:9	F.2d 40:5,9	feeling 31:19	finishing 100:17
exhibits 8:16,25 9:4,9 10:10,11,18 25:3 31:15 32:13,21,23 34:18 87:15 102:18,22,25 103:15,19,22 104:3,6, 22 106:18 107:17 109:8,15 110:6,12,16 111:6,10	face 6:6 117:18	feelings 87:22	fire 162:21 173:6 183:19
exist 17:13 166:21	Facebook 95:2 96:25	feels 75:23 77:13	fired 43:17 44:15 95:7
existence 143:2	fact 16:14 27:4 28:3,6, 18,25 30:11,18 35:8 97:23 117:14 121:4,9, 11 131:18 153:17 163:23 174:12	fees 180:19,24,25 181:3,10 182:16 183:1, 9,10	fit 8:18 51:6 176:11 186:3
expect 85:6 110:4 130:13 155:19 177:15	factor 20:15	felt 44:1	five-year 32:3
expectation 41:16 91:22 92:12,17	facts 21:7,8,10,13,17, 21 82:10 86:21 184:15	field 67:21	fix 63:12
expectations 100:1	factual 85:24 86:18 174:16	fight 42:21 46:5,6 80:17	fixed 23:11
expecting 134:19	fair 27:22 28:7 30:2,12, 20 36:5 44:23,25 50:23 56:17,22 60:14 83:10 116:19 125:14	figure 13:23 15:9,23 27:8,13 31:18 38:18 40:21 55:21 60:17 65:23 66:6 70:13 118:15,23 124:10 131:8	flag 55:2 56:20 63:6 84:17 85:9 86:23 88:15, 18,21 89:18 98:12 108:6 109:9 110:11 140:21 146:7 172:8 180:3
expenditures 96:1	fairest 118:7	figured 15:18	flagged 90:22
expert 121:5 183:11	fairly 17:14 29:10 82:10 96:11	figuring 58:15	flagging 22:5 89:22 107:13 184:24
experts 178:22,24	fairness 28:17,20 29:1 125:8	file 10:2,4,6,7 11:2 46:16 102:19 104:7 119:23 137:20 140:5 165:9 169:12 181:3	flavor 124:7
explain 28:22 48:2 61:15 106:2 175:7	fall 45:23 181:21		
	fallback 130:19		

flight 47:25 94:2,3,25 97:21 124:1 137:16 138:13 141:1,2,21 145:1 147:1 151:6,16 171:25 172:1	Fortunately 152:10 181:7	funding 41:20 42:1	76:23 85:22 86:22 93:16 100:15 101:12 102:18 104:8,24 106:24 108:20 122:11 145:4,14 147:12,16 160:25 165:23 167:1,3,7 172:21,23 174:19,24
flip 63:6	forward 45:20 162:12 185:8,11	funds 38:1	
flow 62:21,22 72:11 179:19	foundation 91:16 110:14 111:4	future 16:17	
fly 155:21	four- 32:3	G	
flying 115:15 132:3,8	fourth 13:3,11 15:5 16:2,6,21 19:10,25 58:3 76:17 92:10 99:17	gain 73:16	giver 85:21,22
folks 60:9 112:1 119:12,19 120:18 121:25 137:15,25 138:4,15 141:4 153:9 155:14,20,23 156:9,15 160:19 167:13,14,19,20 169:14,21 170:15 185:16,19	frame 61:13 81:14	gamble 121:19	giving 57:25 61:5 114:6 148:10 185:9
follow 84:20	framed 86:14	game 30:20 56:23 66:12 69:19 70:21 74:10 166:15	glad 73:2
follow-up 54:12 55:22 56:12 87:10	framework 91:17	gaming 69:21 70:24 71:6	glass 151:22
follow-ups 80:4,22 87:8	frankly 17:6 29:3 112:25 119:22 143:3 162:5 183:2	gander 44:16	global 31:20
fond 71:4	fraudulently 78:15,20	gatekeeping 174:12	globally 32:6
food 20:8,13	free 25:21 29:16	gather 168:21	goal 166:3
football 52:22 59:16 61:6	free-for-all 48:10	gave 67:17,22 70:10 104:9	God 94:24
force 11:14,15 66:22 135:9	freely 72:3	gear 116:13	Gofundme 41:8,12,18
foremost 45:6	frequent 72:5 73:18	general 31:19 64:9 100:2	Gofundmes 42:3
forget 62:7	Friday 115:14 149:4	generally 55:19	good 9:10 12:5 15:23, 24 16:1,25 17:24 18:19 19:8,19 20:2,6 30:10, 14,17 41:22 42:4 44:16 50:21 54:7 56:9 57:4 62:5 63:11,18 64:21 66:18 73:3 79:8 82:11 85:8 87:1 96:22 100:17 105:21 132:12 134:7 152:14 161:15 169:16, 18 179:7
form 56:14 79:14 128:4 165:13,15 183:17,18 184:10	friend 37:10	geographically 151:2	goose 44:16
formal 6:24 14:25 23:3, 12,22 24:19 25:11	friends 36:18 37:17 39:5,7,12 40:16 41:5, 13,15,17,24 84:19	get along 59:4	Government 69:4
formally 154:16	front 36:11 52:11 74:22 86:4 89:2 105:25 110:20 133:8 174:9 181:19,25 182:12,18	Gilliam 5:9 7:22 8:9,13, 18,21 9:11 14:1 16:5,23 25:15 27:17 32:22 39:6, 22 40:5,9 43:8 49:11 55:23 60:25 62:12 82:11 87:5 90:16 93:9 94:6,18 98:7,10 99:1,15 112:8 113:17 114:2 115:3 116:1 117:3,16 123:19 124:16,22 129:1 143:15 144:15 147:21 148:6 159:5 162:14 163:1,5,24 167:17 171:16 179:2 180:16 181:17 182:8 183:23 184:6,21	grab 10:22
formers 128:2 130:7 159:1	fruits 70:1	Gilliam's 45:7	grant 34:3 36:9 72:2
forms 56:4,22	frustrated 71:23	give 11:7 22:1,24 26:2 35:3 40:2 49:9,24 54:1, 4 57:7,8,14 58:2,3 61:24 67:21 71:12 72:9 73:13 74:4,23 75:12	granted 117:8
formulated 84:15	Frye 11:10,16 51:19,23 65:14 97:13 186:12		granting 34:17 47:10
formulation 93:1	Frye's 11:5,7		gratuitous 34:4,23
forthright 70:18	full 24:21 110:2 152:8 165:1,10		great 22:22 40:3 102:21 135:7 153:10 157:22 186:1,3,17,23
	fully 18:20 132:18 153:2		greater 12:17
	fun 185:7 186:18		green 145:18
	function 162:1		Greenfield 5:18 20:7, 11,20 29:6,7 31:14 32:1,14,15 37:21 40:7,
	fundamental 125:8		

10 45:5 46:16 48:17 58:20,22 66:1,15,20 73:23,25 82:14,16 86:1 87:15 88:20,22 95:9,12, 22 96:7,10 99:13 113:12 125:11 130:21 135:13 138:10,21 139:2,9,13,23 140:12 141:9 142:3 149:11,12 169:5	Halpert's 151:14 hand 19:21,23 40:19 71:5 108:5,13 165:6,18 handcuff 30:13 handed 172:11 handful 69:19 handily 174:24 handing 109:5 handle 6:23 7:7,10,11, 12 22:3 23:6 52:19 55:19 74:2 85:17 86:2 92:24 96:17 97:5 105:19 108:10 133:12, 18 134:5 135:10,25 137:24 164:16 172:14 173:1,2 175:21 180:25 181:12 183:8 handled 43:22 48:3 70:8 handling 100:12 122:4 133:14 135:4 164:9,10 hands 79:3,9 114:13 145:2 handy 53:14 happen 24:20,22 25:9, 12 53:23 82:20 103:12 115:14 120:16 150:21 152:25 153:19 168:4 169:2 happened 30:1 74:15 happening 86:6 happy 83:7 114:23 115:1 150:2 156:24 157:1 harassing 29:22 harassment 29:16 hard 21:14 33:22 54:25 57:23 harder 54:15 hardship 59:22 harm 43:18 hash 110:5 175:16 hashing 109:17	hate 115:6 118:17 hawing 86:5 head 9:15 88:10 139:10 heads 101:12 147:16 health 39:17 heaping 71:1 hear 8:8 16:25 21:15,21 25:25 26:19 27:15,16 29:6 32:16 33:12 37:7 38:9 39:3 42:22 45:3 46:1 47:6 67:19 68:20, 22 101:10 102:9 103:21 104:13 113:11 114:15 115:1 116:4,6 129:15 136:24 144:3 146:17 151:23 166:4,25 167:2, 16 174:17 176:14,16 186:10,11 heard 49:6 151:18 164:19 179:23,24,25 hearing 63:10 103:10 114:25 122:19,20 123:5,6 135:7 179:8 hearings 28:18 hearsay 104:14 106:1 165:16 174:14,25 175:10 Heated 87:8 heels 12:2 held 36:15,22 135:16 helped 35:23 helpful 72:13 74:19 144:2 helping 37:17 helpings 71:1 helps 21:9 hem-hawed 78:25 hemming 86:5 hesitant 74:4 82:16 Hey 9:9 48:23 60:5 62:18 66:14 69:22 74:14 86:16 104:2 121:20 136:20 143:5 146:10 156:23	hiding 147:9 higher 20:24 highest 62:4 highlights 97:6 Hill 5:10 79:24 Hillary 31:2 87:17 hired 67:21 history 44:6 83:3 hits 88:9 hold 62:2,6,8 holding 77:4 home 59:25 80:6 92:12 honestly 9:16 81:1 89:7 171:21 Honor 7:23 8:13 14:1 16:5 20:7 27:17 29:7 32:1 35:17 37:21 43:8 45:5 47:17 49:11 55:23, 24 56:25 58:10,22 60:25 63:9 72:14 73:23 77:11 78:21 86:1 88:23 94:18,19 95:9,10 99:14, 16 117:6 119:1 125:11 130:21 134:14 135:13 136:10 139:23 143:15 144:15 148:6 169:5 174:13 180:16 182:9 183:23 hope 110:7 167:17 hopeful 173:17 hoping 48:9 83:12 Horizon 109:24 horrible 64:18 horribly 64:16 75:11 hospitality 162:1 hour 100:2 117:25 118:12 120:12 148:20 162:7 hours 24:18 63:15,19 64:4,5 67:25 68:11 69:5,7,8 74:1 75:1,12 101:20,21 102:1 115:20,24 129:18,20 144:3 165:8,12,17
<hr/> H <hr/>			
habitually 171:25 half 52:13 80:16 116:12 halfway 52:12 hall 59:21 118:19,21 178:10 Halpert 151:13,19			

HR 183:5 184:2,4,12,21	in-flight 164:7	information 31:7 45:14,25 46:10,21 56:4, 5,8,14,22 76:15,17 79:14 83:6 114:12 120:23 121:12,19 148:23 167:20 171:24 185:14	160:14 166:7 181:20
huddle 54:21 55:3 86:16 133:3 134:7	in-town 135:10		involves 85:2 123:7,24
huddled 25:4	inadmissible 122:21		irrelevant 31:5 72:21 126:6
Hudson 111:24 120:12 154:11,17,20 155:14 157:7,9 170:19	incentivize 106:8		issue 13:15 15:8 17:21 21:4 22:21 26:1 28:14 30:22 33:6 36:3,12 37:4 39:13 41:3,7 43:7 44:5 48:6 49:22 55:16 76:9 77:14 78:1,11,22 81:6 92:8 109:11 114:25 120:8,15 127:2 135:15, 20 141:7 146:8 150:10 152:7 155:4 158:24 164:17 180:4 184:18
human 94:23	incentivized 170:5	inherent 78:17	
hundred 155:10	incidental 40:21	inherently 114:13	
husband 36:19 39:12, 17 71:16	incidentals 38:25 39:1	initial 29:13 43:4 46:8 112:2,11 113:22 114:6, 14 115:6 117:3,17,19 118:3 134:25 144:18,20 154:9 160:7,20	
hyper-relevant 88:13	inclination 163:14,21	injecting 33:20 34:8,25	
<hr/> I <hr/>	inclined 31:23 34:2 114:17	instance 39:16	issued 81:18
i.e. 160:23	include 43:9 68:13 78:24	institution 91:9	issues 8:25 31:25 44:8 47:11 51:14 71:19 76:8 94:5 111:13,20 115:19 117:18 118:14 119:2 120:4 123:8 130:24 136:18 137:12 140:25 141:10 144:11 149:22 157:16 164:10 167:24 169:7 171:15 172:4 173:25 174:12 177:22 180:2,6,17 182:7,22 185:6
idea 141:3	included 32:4 95:15,25	instruction 43:3 46:25 49:10 180:10	item 7:24 8:21 25:16
Ideally 174:19	includes 123:5 128:7	instructions 49:2 53:1 93:16	items 25:19
ideas 59:2	including 16:2,3 27:1 53:7 69:20 79:13 94:14 98:17	insurance 39:18	<hr/> J <hr/>
identified 127:14	inconvenience 118:11 146:3	intend 113:7 154:3	Jamaica 119:8 160:24 161:6
identify 112:22,25 113:4	inconvenient 115:24	intending 33:9	James 167:6
identifying 77:5 132:13	incorrect 45:9	intent 131:5	January 94:24
identities 112:13	incredibly 70:2	interest 17:4	jerk 9:8
ignoring 100:20	indictments 12:11	interesting 161:24 185:10	Jessica 138:14
Ill 5:19	individual 56:21 59:19 144:19	intermingle 108:18	job 24:20 29:9,24
illuminate 31:24 38:13	individually 127:13 144:13 145:15	internal 29:19	John 138:14 149:16
imagine 38:23	individuals 45:19 135:15 141:17 146:17 149:13 170:18	interplay 155:2	joint 106:21
Imlet 127:14 131:22,23 132:15	inefficiency 67:8 121:22	introduce 53:7,10,13	joking 161:20
immune 178:14,19,21	inefficient 67:5 69:10 73:13 75:11	introductions 93:18	Jones 167:6
impartial 51:15 83:13	inefficiently 73:11	investigate 185:2	judge 24:20 36:5 68:17 69:1 70:13 80:23 84:22
impersonal 61:21,22	inevitable 101:23	investigation 112:10 120:22 158:1	
implied 19:16	influence 88:5,7 125:15	invoke 177:24 178:3 179:2	
important 43:20 44:24	inform 48:17	invoked 178:5 179:5	
impossible 176:22	informal 6:23 14:24 22:14,19 23:1,20 24:23 25:8	invoking 177:23 178:11	
impression 175:13		involved 37:12 63:13 95:4 97:2 112:10	
improperly 27:3			
in-depth 105:13			

89:20 90:2 96:6 182:17	Kelli 177:6	language 98:1,4,13 113:1 173:23	legally 13:9 18:5
judges 8:3 71:4,23	Kevin 11:10 65:20 89:24 90:7 105:17 177:18	late 22:20 74:10 104:21 117:11 129:4	lengths 29:11
judgment 181:2	Kevin_frye 11:9	late-breaking 9:3 88:25	lengthy 50:3
July 11:23 12:8,9,12,21 51:21 53:19 89:21 117:12 119:7,8,9 129:24 161:2,3,7,9,18, 21 162:2,3,17,18 163:11 171:3 177:21	key 32:21	latest 97:15	letting 84:13 134:8
jump 75:17 150:22	kick 54:22 59:20	law 13:15 15:8 45:8 65:20 76:25 82:10 85:20,21,22 86:22 91:14 146:15 179:25	level 44:9 129:10 141:15 146:18 160:21 176:15
jumped 90:12	kids 59:25 101:8	lawfully 142:24	lieu 181:24 183:10
juries 9:17 23:25 50:12 100:1 167:4	kind 10:2 11:1 38:21 62:19 78:25 84:22,25 85:5 92:10 96:4 97:24 115:17 118:23 135:19 152:17 177:5 182:16	laws 98:17 99:8	life 76:19 94:23 167:7
juror 52:7,8 54:23 56:4, 14,22 79:14	kinds 83:11 153:13	lawsuit 31:22 33:10 94:1	light 145:19 173:18
jurors 50:11 51:1 52:13,17,23 55:8 58:24 59:2,21 61:16,22 62:5 67:10 101:8,11	king 24:5 111:2	lawyer 40:23 53:6,24 56:15,16,17 61:5 67:14, 16,20 69:25 75:15 86:10 118:12 133:6 141:20 155:20,21,24 156:2,25 157:1 166:10 176:11 179:22 186:9	likes 7:2 135:7
jury 6:4,5,6,19,20 7:13 9:15,19 10:19 12:3 13:17 21:11,18,19,22, 24 22:9,11,15,22 23:5, 7,9,15,16,24 24:3,13, 15,23 25:7,13 28:22 30:9,20 32:11 34:10 35:9,24 36:4,12 38:5 41:14 46:1 49:5 50:8 51:2,5,8,9,21 52:6 54:1 56:1 60:17,20,21 62:2, 20 64:1,6,12,17 66:8,17 67:9,19 68:1,4,14 69:15 70:20 78:2,23 81:20 82:18 86:4 89:20,21 90:4 96:8 102:6,11,12 104:12 105:5,17,25 106:9,14 110:8,12,16, 22,24 111:7 130:14 135:7 136:20 166:4 172:20,25 174:10 177:2,19 181:8,16 182:5,6,13 186:13	knew 32:22 113:23	layer 124:25	limine 6:25 26:6,8,16 30:24 31:12 35:5 36:9, 14,22,25 40:12,14 42:6, 8 46:16,18 47:11,14,15 48:5 49:20,22,23 70:25 71:10 72:16 87:14 122:22 125:21 180:4,6
jury's 33:23 72:12 100:21 101:6 103:10	Knight 44:22	lawyers 9:1,14,15,18, 21 21:14 66:3 69:19 72:16 105:20,22 106:7 172:7 176:12 179:17 181:5 186:17,19	limines 25:22
	knock 12:2,7,9,12 65:10	leads 81:9	limit 42:9 80:3 115:18, 20 117:24 125:9 153:1
	knock-down 80:5	leaded 81:17	limitation 119:21
	knowing 74:4 123:16	leave 10:5 11:3 33:3 153:6 164:21	limited 15:3 28:25 42:25 47:22
	knowledge 38:17 42:17 114:7 118:4 121:2 122:3 158:1	Lebeau 14:4,9 17:8	limiting 43:3 46:25 49:2
	Kuwai 119:6 160:23	led 31:22 33:9	limits 7:2 47:8 63:25 69:17 95:12 126:11,12 176:20
	<hr/> L <hr/>	leeway 100:15	Linda 160:10
	label 36:6	left 6:13 52:3 68:2 69:6	line-level 140:16
	labor 16:13 44:10	legal 13:7 67:14,22 82:5 85:17 86:19 91:17 174:12,18	lined 177:7
	lack 46:22 68:21 120:22 121:1,12,18 122:20		lines 151:4
	Lacore 120:20 122:5 160:11 161:23 164:1,4, 7 166:9 167:14 168:3,8, 18,20,22 169:24 170:19,20,22		list 7:14 9:4 10:1,16 21:19 53:13,14,16,18, 21 54:1 65:15 67:4 78:24 81:10 91:15 102:19 103:5 106:19 107:7 111:11 113:24 116:14 130:3 149:10 160:20 172:24 180:15
	Lacore's 162:23 166:10		listed 57:6 138:2 144:20 154:8
			listen 179:23
<hr/> K <hr/>			
keeper 10:11			
keeping 65:22 75:2			

listing 111:13	101:22 129:25	management 143:23	16,20 152:12,21
lists 9:9	lunchtime 101:19	manager 164:11	153:21,25 154:19,23
live 13:3 56:6 149:21	Lynn 89:20 90:2	managers 44:7,9	156:5,20 157:2,8,15
162:21 163:3 170:22		137:21	159:14,21,25 160:4
172:22 173:6 183:10,19	M	maps 109:22	161:2,6,13,22 168:6,13,
185:5		March 95:1,4,8,20,23	20 170:12,24 171:18
live-fire 186:25	mad 83:7	96:23 97:1,2,3,22 98:8	172:1 173:15 178:3,4,
lives 132:2,7 151:17	made 34:19 70:24	marginal 46:14 72:22,	13,16 182:14 183:6
loan 41:25	105:12 126:16 164:2	24 73:4 163:17	184:11 185:22
lobby 22:18	174:7	Marines 11:14	MDL 109:24
local 5:6,17 26:22 27:2,	main 107:4	mark 19:21 100:21	meaning 167:8
16,25 31:6 89:5 90:11,	maintaining 104:4,8,	173:4,13	means 35:11 74:23
13,14 94:4 131:18	20 108:2	marked 172:11	158:9
137:19 143:16 144:21	major 119:2	marked-up 84:10,12	meant 165:16
154:13 158:7,18 159:16	make 7:3,21 8:12 9:3,7	marking 19:23 97:16	meantime 37:18
location 139:10 147:7	11:20 14:25 33:14 34:5,	match 131:14 172:23	measure 24:21
148:23 167:19 171:24	9 35:8 36:1 38:3 43:15	173:6	mechanical 61:10
185:14	48:6 55:4 57:12 59:24	matches 59:8	mechanics 146:1
lock 24:17	64:20,21 66:15 70:12	matching 19:14	mechanism 41:19
long 19:4 44:22 52:1	71:2 72:4 74:9,20,22	math 58:15	media 94:15 164:6,10
62:9 66:5 67:15 134:3	75:10 76:4 87:1,16	matter 9:24 14:20	medical 38:21,23
longer 127:15 140:4	96:22 100:25 101:13	20:14 30:10 31:20	meeting 27:4 97:24
143:22,24 145:19 147:5	105:2 106:12,25 107:21	60:12 88:8 116:8	meets 13:7
148:7,18 154:1,12	109:5 118:16,24 120:9,	127:18 134:25 168:14	Melissa 154:11
157:23 159:6,9 176:1	10 122:2 124:3 126:11	182:25	member 29:21 38:2
looped 130:22	128:25 129:4 130:16	matters 19:6,8 76:19	94:10 149:16
lose 50:11,21,25 51:13	131:1 134:11,22 136:5,	Matthew 5:9,10	members 45:22,23
loser 106:4	9 137:3,13 145:25	Matumbo 5:24	78:23 80:1 95:1 140:1,9
losers 35:20	150:21 152:8,25	max 118:12 120:12	142:13,22
loses 53:25	153:16,19 155:6,15	Mckeeby 5:14 9:24	membership 94:11
lost 64:16 65:21	156:3,19 157:19,24	15:17 17:3 28:13 32:18	mental 175:13
lot 9:14 44:5 62:21 69:7	158:4,22 165:1 166:14	38:20 39:1 40:1 47:17	mention 16:7
72:22 73:4 91:10	169:1 170:10 171:21	48:11 57:16 58:7 74:23	mentioned 131:21
116:10 161:15 175:8	172:16,19 177:10	83:17,20 84:22,25	169:6 179:10
lots 186:18	180:24 183:7,19 185:2	88:18,19 90:15 94:19	merge 21:5
loud 96:12 186:10	186:8	96:18 97:19 99:3,11	merits 14:22 15:10
Louisiana 109:22	makers 160:14	106:16 112:18 113:6	18:10,11 69:2
love 9:20	makes 8:8 11:1 23:23	116:7,24 119:1 122:6	message 96:12
loved 34:12	28:4 33:10 61:20 75:9	124:12,20,24 127:12,24	messages 94:14 95:3,
lowest 62:4	85:25 88:2 97:20	128:1 129:7 131:6,16,	7,13,15,19,21,22,25
luck 23:14	121:22 127:10 134:24	22,24 132:6 134:14	96:22,25 97:1
lunch 23:16 100:3	135:1 137:4 142:20	137:6,8,14 138:14,23	met 128:18
	144:14 178:25 182:17	139:1,12,20 140:17	
	making 6:8 33:23	141:3,18 142:8,11,25	
	34:22 59:3 77:15 94:14	146:4,13,23 147:19,22	
	126:12 150:7 174:17	149:25 150:24 151:12,	
	184:14		
	man 111:1		

method 79:20 172:15	mixed 129:21	Nancy 160:11	noted 112:8
microphone 62:19 176:10,17	mode 49:16	Naomi 154:11	notepad 66:5
microphones 8:4 52:10 61:11	model 181:1	nature 16:18 45:18 46:5 48:18 56:7 150:23	notes 31:4 160:4
middle 82:13 129:16 180:5	modern 83:3	Navarez 138:16 139:5 141:14 142:5 149:19 151:9,24 152:1	notice 19:3,13,15
midmorning 100:5	modification 98:1	Navy 11:14	noticed 56:16
Mike 112:20 123:25 125:3	modified 84:1	nearing 74:17	notices 117:14
miles 126:25 155:8,10 158:7 159:17	Monday 47:5 53:19 102:7 115:12,13 145:17 147:5 148:7,10,18 149:6	necessarily 85:12 135:16 143:23	notion 40:19 128:20
million 58:12	money 41:9,21,22 91:20	needed 12:2 33:13 69:12	November 112:20 116:24,25 117:5
mind 8:5 41:24 42:5 49:2 50:24 62:21 66:16 127:11 135:22 140:21 146:8 148:10 155:25 177:1	monitor 5:23	needing 183:17	number 25:24 26:16 50:14 52:7,8 61:25 62:4,10 76:2 84:8 107:1 174:20,24 175:6
mindful 180:6	monitors 105:18	negotiated 164:5	numbers 79:3 106:22 107:6 172:23 173:7 176:5
mindset 156:1	morning 7:13 12:1,3 89:20 100:4 104:23 105:12,15 142:4	nervous 58:5 82:14 84:20	numeral 114:5
mine 26:13 61:13 82:23	Morris 5:15	neutrally 82:25	<hr/> O <hr/>
minimize 25:3 64:23 103:8	mother 71:17	news 12:5	object 71:9 72:17 105:23 109:14 116:19 165:15 179:19
minimum 101:18,19	motion 10:5 11:3 25:22 26:15 31:12 46:16 48:4 119:24 128:17 181:3 182:17	nice 63:19 128:14	objected 71:19 165:13
minute 84:11 176:21	motions 6:25 23:6 26:6 102:10	night 23:15 103:11 104:21 107:15,25 109:6 123:13 126:17 147:24	objecting 32:24 71:7, 21,22 73:6 95:25 111:23 122:17 126:3
minutes 51:18 52:25 55:20 59:14,15 61:25 62:22 63:3,21 67:25 70:5 75:14 89:11 100:6, 16 101:3	mouth 34:21	nightly 107:19	objection 31:7 58:9 64:18,22 72:3,10 103:2, 4 104:9 105:4,25 106:1, 2 120:21 121:14 166:1, 2,3,4,13,14 174:20,24, 25 175:2,17,18
mirror 99:13 113:12	movant 181:2	noble 36:2	objections 7:6,15 64:21 70:24 71:5 72:5 73:12,14,19 94:13,17 99:1 102:16 103:9 104:3,7,20,22 105:7,9, 15,19 106:25 107:4,9 108:2 109:17 110:15,18 111:25 120:19 122:14 123:8 165:3,11,15,24 166:18 174:9,12 179:11 185:21
mishmash 174:18	move 107:1 170:5 171:25	non-characterizing 96:4	objector 94:12
misleading 96:15	moving 100:7 168:25	non-member 94:12	objectors 45:22
missed 57:1 139:1 180:15	muddy 170:10	non-party 42:13	
missing 7:20	multi-defendants 108:11	non-profits 91:12	
misspoke 138:18	mythical 80:14	non-recoverable 181:12	
misstating 171:8	<hr/> N <hr/>	nonprofit 90:25 91:2 92:18	
mistrial 180:11	nail 88:10	nonprofits 91:14	
mitigation 36:20,21 37:5,8,9,11,16,18 39:8, 10,14,20 40:25	named 112:1,4 118:2 166:9 170:18	noon 100:3,14	
	names 114:4	normal 11:9 41:16 50:25 115:11 116:18 144:24 159:2	
	naming 112:6	note 79:22 131:16 159:18 172:5 175:19 179:14	

obligation 112:25 114:3	129:24 179:11,15,16, 20,22 180:5	out-of-court 174:14	Parker 126:20 138:14 139:2,25 141:14 142:5 149:19 151:9
obligations 113:22	opens 149:2	out-of-order 162:20 163:3,11	Parritt 139:25 141:9 149:17
observation 122:6	opinion 83:8	out-of-town 133:13 134:4 135:5,9,25 162:3	Parrot 138:14
observed 18:1	opinions 92:22	out-of-turn 136:19	parsing 32:10
obtain 41:14	opponent 72:23	outcomes 18:21,22	part 28:10 34:4,17 36:9 68:10 99:20 109:8 119:5 125:3,7,21 130:25 132:11,16 182:1,12
obtained 38:14	opponents 43:24	outline 133:10	partial 95:14
occupation 56:6,7	opportunity 112:23 116:17	outset 8:24 9:23	partially 31:6
occurred 28:19 112:20	oppose 18:6 27:1	overcome 78:17	participant 154:3
occurs 163:23	opposed 29:2 31:6 57:2 99:4 162:7 182:20	overlap 138:11	participating 94:15
odd 133:24	opposes 36:19 37:5	overlay 148:3	parties 27:6 45:15 61:2 81:3 83:21 133:2,13 146:19 155:19 182:20
odds 174:6	opposing 108:2	overly 33:16,17 34:25 56:19 80:20	party 57:3 59:14 70:16 75:25 77:12 78:5 143:7 178:18
offended 8:7	opposition 33:3 99:4,9	overly-sensitive 59:19	pass 130:11
offer 105:8 110:20 122:18,21 159:1	optimistic 173:16	override 108:22	passing 48:14
offered 29:25 85:4 105:4 182:22	option 163:1 168:16	overrule 175:13	past 43:22 102:4 114:24 153:17
office 56:3 89:19 119:18	options 57:16,19 58:8 90:4 100:12 152:16	overruled 64:19 73:20 166:2,19 175:15	path 162:12 185:11
OFFICER 5:2 89:13,15	order 6:18 12:22,24 13:14 15:3,7,21 16:4,17 17:21 19:22,23,25 21:2, 6,23 25:19 49:20 59:14 62:3 73:25 76:6 83:23, 25 84:3,8 103:17,18 108:12 116:5 122:22 123:2 153:15,16,18 156:7,13,16 163:22 167:12 168:1,7 169:22 170:6,12,14 171:21 173:16,20 174:1,3,4 185:12,16	overruling 105:15	paths 58:24
officers 186:19,21		overt 77:2 91:6 92:1	patrol 86:8 178:7
official 27:25 43:21 44:5,20 97:24 164:9		<hr/> P <hr/>	pattern 93:16
Ohio 161:13		p.m. 11:22,24 103:24 104:1 107:17 145:17 187:2	Paulo 5:14
Oil 109:23		pack 51:9	pause 66:19 120:2
oldest 12:10		pages 8:16 47:5,8 48:23,25 102:23 107:2	pay 41:15 155:21 181:19,25 182:18
omission 18:4		pandemic 50:10	paying 94:12
one-day 50:12		panel 52:18 55:2,5,6 65:3 80:18,19	peace 12:17
one-hour 119:14 153:1 154:21 156:1,17,25 163:16 164:20 165:8 167:15 168:11 170:16, 23 185:13	ordered 114:24 167:14 168:11	panel-busting 80:12	peculiarly 38:17
one-page 70:5	ordering 170:7	panoply 38:21	penalty 14:14
one-question 79:14	orders 11:6	paper 10:19 165:22 166:6,16,23 173:3,9,13	pension 39:19
onus 81:3 112:12 122:1	Oregon 138:22,24	paragraph 94:5,17,21 98:6,15,24	people 24:11,13,16 28:8 45:23 50:5,21,22 51:5,10,12,15 58:6,16
open 50:24 133:15 134:6 136:1 175:11	organization 91:2	paragraphs 94:8	
open-minded 60:7	organizations 91:1		
opening 21:12,22 60:22 64:2,11 86:11	original 46:5		
	other's 110:6		
	out-of-bound 130:13		

59:19,25 61:11,14	151:17	pleadings 15:4,21,22	182:17 183:1
66:22 67:7 73:17 80:13	pick 12:3 51:8 61:7	19:19 21:5	posted 48:1 174:2
83:7,13,14 89:3 91:19	81:12,20 90:4,5 102:6	plenty 11:12 25:18	posts 94:15
109:12,14 112:9 116:11	137:8,10 176:17 186:2	122:12 128:1 152:24	posture 49:25
118:3 122:2,7 129:4	picked 83:2 178:11	183:16	potential 59:19 61:16
137:18 138:9,12 142:1	picking 22:11 51:2,21	plow 101:3	78:22 135:14 149:22
144:23 146:3,4 151:2	89:20	plowing 100:19	potentially 20:15 38:5
154:1,7 157:5 159:6	piece 38:11 109:18	pockets 168:23	45:10 96:10,13 115:3,6
169:19 175:22 178:23	pierce 91:23	podium 6:6 52:2 53:16	135:16
186:11	pinpoint 109:25	point 18:16 19:7 20:12	potty 100:22
people's 112:13	pitch 162:11	22:14,25 23:7 28:11	power 142:2 144:8
118:11,24	pitched 177:20	29:18 30:7,9 36:13	150:13,14,18 153:13
peremptories 57:10	placard 61:24 62:1,4,7,	37:19 47:15,18 48:5	practical 9:24 116:11
peremptory 50:16	13	52:17 54:20 57:4 59:5	119:10
57:1,15 60:10	placards 62:3	75:2 84:23 85:8 88:22	practically 165:21
perfect 51:11 57:22	place 17:11,13 72:4	96:22 98:13 100:17	practice 130:7 186:10
perfectly 5:25	87:19,20 121:17 168:2	108:6 112:19 122:23	practices 99:5,9
period 32:4 66:5 73:8	places 21:20	123:16 125:21 140:6,13	preadmit 111:4
128:23 145:5	plaintiff 5:10 36:17	142:7 145:11,24 147:3	preapproved 56:11
periodic 153:4	63:16 93:9,25 94:6 99:2	152:22 159:5 161:20	preapproving 56:23
permissible 83:20,24	112:21 133:20 136:11,	162:19 168:6 184:1	precedent 14:3
permission 145:14	14,21	185:4	precedents 92:20
permits 184:16	plaintiff's 31:8 35:7	points 22:5 47:14	predict 57:23
Perrit 138:19	128:21,24 136:25 154:9	political 75:24,25	prefer 25:19 133:12,18
person 33:21 34:12,14	plaintiffs 32:7 45:13	76:21 77:12 78:5 87:23	144:25 162:20 183:8
41:20 49:14 57:24	141:12	politician 48:2	preference 58:7 134:4,
61:12 73:13 74:18	plan 6:12,19,21 19:20	politicians 87:16	19 135:4 162:6,12
80:10,15 85:3 93:25	30:5 33:7 34:17 39:18	politics 34:6 50:20	171:2
115:22 118:19,20	69:10 81:22 93:21	55:16 77:6	preferences 162:14
141:22 143:11 145:6,25	103:14,15 117:23 118:6	pool 58:1 59:17 60:12	preferred 130:17
146:9 160:23 166:9	122:4 147:14 166:20	74:1,14,17 82:18 86:5	prejudice 15:25 18:18,
167:3 184:2,4,12,22	planned 169:13	pooled 57:20	24 19:6 20:5,13,19,24
person's 31:2 179:15	planning 12:13 103:20	pooling 74:9,23 75:6,7,	33:12,19,20,25 34:1,8,
personal 82:9 83:14	106:17 117:24	10	16 46:14 73:5 122:21
157:25	plans 135:1 161:9,12	pop 25:20	prejudiced 112:5
perspective 28:16	162:8	portion 163:20	prejudicial 31:5 33:16,
persuade 23:20 24:22	play 35:13 37:16,22	position 29:5 46:8	17 35:1 126:7
25:10	42:4 166:8,16	113:12,15,18 148:15	premature 182:12
persuading 23:23	played 172:8	positions 28:8	prep 12:18 89:3
pertains 46:20 48:19	players 150:10	possibly 8:15	preparations 101:13
phase 102:3,5	playing 128:14 166:17	Post-it 179:13	preparing 170:12,14
phenomenon 150:12	pleading 18:7	post-termination	
Phillips 39:23,25		123:22 124:1,8	
Phoenix 139:12,13		post-trial 181:13	

presence 23:4 35:9 143:14	proactively 70:10	proposing 182:4	purposes 12:13 103:21 176:18
present 9:19 160:13 163:11 175:12	problem 6:7,9 34:7 62:6 69:18 72:8 73:21 77:18 91:7 96:5 101:14 127:11	Prosperity 91:15	pursue 162:20
presentation 135:20 162:21 163:4	problems 106:20 140:20 152:1 155:22	protect 25:1 98:18 99:9 100:21	push 26:4,5 47:9
presentations 164:24	procedural 15:10,15 20:19 61:9 83:17	protected 16:13,14	put 10:14 18:22 21:19 39:17 42:24 44:14 59:9 62:4 72:24 73:9 79:22 82:9 92:8 103:23 104:6 108:8,17 110:20 121:16,18 153:1 166:9 170:3 173:5,23,24 176:19
presented 125:5	procedurally 18:15	Protections 99:19	puts 81:3 122:1
presenting 66:16 70:19 74:3 152:5	procedure 165:1 174:6	protects 99:7	putting 21:8 43:13 74:8 87:4 103:13,14,25 127:6
preserve 25:12 48:15 71:2,10	proceed 107:6 159:3	protest 76:24 88:1	
preserved 48:7	proceeding 124:23	protocol 7:10,19 10:3 25:3,14 51:3,4 59:13 64:22 103:2 106:15 108:10 109:3 110:10 132:11	<hr/> Q <hr/>
preserving 23:23 72:11	proceedings 29:1,2 115:7 123:22 124:2,9 160:16 182:9 187:2	prove 68:5 110:2	
president 26:23 27:20, 24 29:14,21 32:3,5 95:3,6,17 96:25 141:13 149:13 164:1,4,7	process 28:17,18,19, 21 29:11 106:6 107:24 111:4 119:18 124:25 125:3,7,9 126:5 143:9 145:2 147:8 156:23 157:4 169:23	provide 114:3 136:13 147:7,22,25 148:23 159:14 171:24 172:24	
presidents 44:9	processed 90:10	provided 37:2 67:14 83:21	quash 119:24
pressed 33:22 165:25	produce 35:7 116:12 168:15	providing 160:14	queen 24:6
pressing 166:19	profession 186:22	provision 16:6,9	question 12:24 13:8, 13,19,24 15:10,11,13 16:1 31:9,13 36:8 37:14 42:25 46:11,24 52:18 54:12 55:1,12,13,22 56:9,13,21,24 57:6 61:12 62:24 63:15,18 64:25 65:12 66:1,13,21 71:7,20 72:18 73:7 75:21,22 76:13 77:8,12 78:6,24 79:21,23 80:2, 21 81:13,16,23 82:3,21 83:18 84:6,13,14,16 85:1 86:13 87:19,20 88:9,17 91:3 92:3,16,21 93:2 114:21 121:13 126:22 128:1,3 132:14, 18,25 133:16 139:18 142:12 144:7 152:3,14 162:22 166:11 185:23 186:1
pressure 7:8 43:13	professional 9:5,18 70:7 106:10 110:5 147:14,17	Pryor 5:10 55:24 56:1, 25 58:10,17 63:9,23 64:2,8,25 68:9,17 70:23 71:11,14 72:7,13 76:2 77:11,18,24 78:8,21 79:7 80:23 81:2,6 136:10	
presumed 44:21	professionalism 9:13 35:23	public 43:24 79:17 91:6 92:14	
pretext 42:16	professionals 107:10	publically 77:4	
pretrial 5:7,21 6:10,18 7:11 11:25 12:22,23 13:14 15:3,7,20 16:3 17:18,21 19:25 21:2,6, 23 49:16,25 76:5 79:19 83:23,25 84:8 115:12	progresses 183:15 184:9 185:1	publicly 79:11 88:2	
pretty 20:12 54:7 62:5 71:23 115:23 131:12 153:25 179:21	prohibit 26:21 30:25 35:6 36:16 82:2,3	publish 105:16	
prevalent 41:8	prohibiting 36:25	pull 33:22	
preview 49:4	promote 149:5	punitive 12:25 13:4,6, 9,11,18 14:2,6,10,15 16:6,17 17:7,9,15 20:25	
previous 10:3	proportionate 49:13	punitives 13:25 14:21 15:6 17:24 18:25 19:3 20:23	questioning 53:5 54:22 55:9 82:17 129:19 133:1
previously 155:4	proposal 182:3	purported 98:16	questions 7:5,18 11:21 13:17,23 14:21 15:15 21:23 25:13,20 28:24 31:17 34:4,12 52:3,20, 24 53:2,3,4,11,18,20,24 54:2,5,6,9,10 55:18
printout 10:20	propose 81:19 104:6	purpose 15:3 43:1 48:4 49:6 122:25	
prior 125:20 126:7	proposed 13:17 22:4 31:17 54:5 63:7 75:18, 20 89:17 93:4,8 129:17		
privacy 91:22 92:12,18			
private 76:20 91:21 95:2 96:25 130:6			

56:11 59:13 60:24 62:13,22,23 63:3,6,7 65:11 66:6 70:22 71:16, 21 73:22 75:16,18,20 77:10 78:3 80:12,24 81:11 83:11 84:2 85:18 86:25 87:2 88:15 89:6, 18 90:9,13,14,18,21 93:4,7,11,12,14 98:23 102:14 106:15 109:3 110:10 111:8 122:4,15 132:24 133:5,20 134:7, 13 136:2 140:19 150:25 167:11 168:5 173:14,15 180:12	reactions 52:23 read 21:13 36:23 43:4 53:13,16 93:21 97:20 102:10 109:20 111:25 160:5 163:19 166:10 167:7 168:9 172:9,20 173:6 177:18 reading 42:23,24 64:12 84:11 96:12 97:5 173:4, 9 ready 5:21 6:10 53:10 116:15 132:21 real 6:4 8:4 80:14 81:18 realize 150:12 155:1 realtime 177:5,11,16 reason 10:9 13:2 15:2 76:9 83:2 97:21 125:9 133:19 158:20 174:11 183:9 reasonable 54:12 56:11 92:12 183:13 reasonableness 181:6 reasons 108:19 111:5 117:8 133:22 144:16 160:21 rebuttal 135:17,23 recall 16:24 42:19 43:12,17 44:18 70:4 94:16 116:21 117:6 134:11 136:5,9 recap 26:18 received 36:18 38:1 39:11,18 142:3 147:24 recent 82:5,8 recently 81:23,25 recently-leaked 92:22 recess 89:11,14 recitation 95:14 recognize 17:9 recognized 27:18 recommendations 160:15	record 5:8 22:15,17 23:4 61:19 62:16 71:3 87:16 89:10 105:12 109:13,19 110:3 133:24 165:14 176:17 178:2 186:7,24 records 133:25 recoupment 42:2 recoverable 13:6 15:11 Red 89:25 177:19 186:14 redact 31:23 32:24 33:9 redacted 107:2 redirect 132:18 reference 13:14 87:16 99:4 174:7 references 32:25 33:1 36:25 referred 164:15 reflect 98:1 refreshing 9:13 regard 30:21 36:8 43:1 45:16 60:14 91:7 125:13 141:9 171:14 regret 54:19 rehash 107:9 reinstate 122:18 reinstatement 180:18, 22 181:14,15,17,24,25 182:7,19 183:24 184:2, 12,17 185:4 related 29:9 39:13 42:10 relatedly 111:16 relates 105:10 relating 71:7 relations 44:10 relevance 33:11,12 46:14 72:17,22,24 73:5, 19 122:21 124:11 125:24 126:2 160:8 163:17,18 174:25	relevant 28:23 42:14 44:2,18 45:25 120:22 121:1,12,19 122:3 160:19 163:24 164:4 174:21 relief 16:10 religion 77:1,5 85:4 91:7 92:19 98:18 99:10 religions 91:8 religious 76:20 77:1,2 91:1,2,9 92:3 164:14 relinquishes 29:15 rely 39:22 49:3 relying 144:9 remedies 70:13,14 181:22 182:23 remedy 181:16 remember 26:8,11 67:12 68:1,4,18 102:20 116:22 171:9 remind 73:9 151:14 170:24 176:19 rendered 125:4 reopen 107:8 rep 112:4 repeat 40:7 replaced 24:7 replaces 15:4,21 replacing 15:5 reply 49:15 report 47:22 48:9 65:3 103:3 104:4,10,17,19 105:10 106:21,24 107:5 111:14 120:5 152:16 153:8 168:1 169:6,11 170:4 reported 26:23 27:20 45:1 95:6 reporter 177:1,6 reports 153:5 represent 27:3 29:24 139:20 140:11 186:20
<hr/>			
R			
<hr/>			
races 129:25 Railway 16:13 raise 62:1 79:2 81:6 126:21 raised 78:21 126:19 raises 84:23 raising 154:23 155:1 175:17 rally 76:24 77:3 92:4,7, 13 ran 54:9 117:20 range 146:5 149:20 rank 137:20 140:5 rational 125:21 reach 18:10 68:15 143:4 144:1 156:23 158:25 reaching 36:3 reacted 43:15 reaction 115:6			

<p>representation 26:22 27:20,22 28:25 30:3,12 44:15,23 45:1 123:25 125:14 126:4 140:8 157:25 158:3 159:1</p> <p>representations 28:7</p> <p>representative 27:25</p> <p>representatives 43:11 139:22</p> <p>represented 29:10 44:21 94:3 130:6,7 139:16 146:25</p> <p>representing 130:5,8</p> <p>reps 53:8 70:16 178:12 186:4</p> <p>request 13:10 18:6,16 35:7 69:1 70:10 177:7</p> <p>require 93:16 116:12 132:13 181:2 184:17</p> <p>required 157:3</p> <p>requiring 156:16</p> <p>research 42:6</p> <p>reservations 150:25</p> <p>resident 138:19,24 139:3</p> <p>residential 147:24</p> <p>resigned 94:10</p> <p>resolve 33:5</p> <p>resources 177:13</p> <p>respect 17:24 18:2 28:15 116:14 119:3,25 142:1 160:15 162:5</p> <p>Respectfully 184:11</p> <p>response 32:20 38:9 39:4 47:6 49:12 103:4 104:1 112:3,19 175:11, 12</p> <p>responses 107:5 165:3</p> <p>rest 30:8 65:10 108:13 128:12,13 134:22 171:4,6</p> <p>rested 129:5 130:20 162:18</p>	<p>result 106:18</p> <p>retirement 38:22 40:24</p> <p>returnable 41:23</p> <p>returned 41:23</p> <p>review 70:5 107:19</p> <p>reviewed 124:18,25</p> <p>reviewing 107:18</p> <p>revisit 17:22</p> <p>reward 106:11</p> <p>rig 18:21</p> <p>rights 29:15 82:5</p> <p>rigid 101:17</p> <p>Riley 14:7</p> <p>rise 5:2 89:13,15</p> <p>risk 118:5</p> <p>River 89:25 177:20 186:14</p> <p>RLA 12:25 13:10,12,18, 25 14:11,21 15:7 17:25 18:3 19:5,14 20:25 27:22 44:19 98:22 99:7, 16</p> <p>roadmap 22:3</p> <p>robust 38:7</p> <p>role 125:15 143:25 150:5 166:8,16</p> <p>Roman 114:4</p> <p>room 22:16 23:8,17 24:4,18 27:6 51:9,10, 17,19,23,25 52:9,13,16 54:15 61:10 80:17 89:21,23,25 90:5,8 110:13,16,22,24 111:7 172:25 177:19,20 186:13,14</p> <p>rooms 118:10</p> <p>rough 91:19</p> <p>round 52:20</p> <p>rounds 133:1</p> <p>route 144:17</p> <p>routine 62:14</p>	<p>row 62:9</p> <p>rows 52:7</p> <p>rule 46:20 64:9 73:15 100:2 105:3 113:2 114:2,9 123:17 138:8 141:23 144:11 167:21 177:23,25 178:3,5,11, 15,20,21,24 179:3,7 184:9</p> <p>ruled 58:21 105:6</p> <p>rules 179:13</p> <p>ruling 25:23 26:1,3,6,8, 11,17 27:19 31:12 35:2 42:7,24 47:10,19 48:6 49:18 59:24 71:10 105:14 176:3</p> <p>rulings 22:2 70:25 72:16 105:2 126:7 165:24</p> <p>run 50:13 58:6,15 60:23 90:1 121:23 150:4</p> <p>running 50:11 55:16 67:4 68:19 72:3,9 158:24</p> <p>runs 66:24 75:4</p> <p>Rutherford 111:24 120:11 157:13 160:10, 24 161:1,2 162:16 170:25 171:7</p> <hr/> <p style="text-align: center;">S</p> <hr/> <p>safely 50:15</p> <p>sake 63:1 101:16 110:8</p> <p>save 20:22 25:15 49:19 56:20 105:22 180:8</p> <p>saved 25:24 26:14 30:23</p> <p>scenario 151:22 169:22 181:19</p> <p>scenarios 181:23</p> <p>schedule 101:18 129:8 137:2 149:6 170:1</p> <p>schedules 118:11,25 128:6,15 129:3 131:15 153:10 168:21</p>	<p>scheduling 6:16 11:22 59:22 108:19 115:19 118:14 119:2 127:2,5 136:13,18 140:25 141:12 149:3,15 159:3 164:22</p> <p>schedulings 163:10</p> <p>Schneider 126:21 127:19 132:6 135:12 137:5</p> <p>scope 19:24,25 44:12 72:17 122:16 164:8</p> <p>scoping 51:24</p> <p>scout 90:7</p> <p>scratch 84:7 166:12</p> <p>search 26:10 92:10</p> <p>seat 66:10</p> <p>seated 5:3 8:11 89:16</p> <p>seats 150:22</p> <p>seconds 176:1</p> <p>secrecy 76:14 77:20 78:18</p> <p>secret 87:24 91:3</p> <p>secular 91:12</p> <p>SECURITY 5:2 89:13, 15</p> <p>seek 15:6 16:10</p> <p>seeking 13:25 14:2 18:25 26:20 35:6 36:16 43:9 45:19 180:17</p> <p>seeks 30:25</p> <p>sees 173:18</p> <p>segment 134:2</p> <p>seizure 92:10</p> <p>selected 21:11</p> <p>send 6:21 10:8,19 11:3, 8 88:25 97:16 110:12 130:3</p> <p>sending 94:14</p> <p>sends 103:13</p> <p>sense 8:8 9:7 23:23 28:4 33:10 34:9 36:1</p>
---	--	---	---

54:13,24 55:14 61:20 64:20 70:12 72:4 74:20 75:9 85:25 100:25 106:25 127:11 128:25 134:22,24 136:5 137:4, 13 142:20 144:14 156:3,19 166:14	setup 176:10 Seventh 14:3 16:20 19:9 24:14 several-minute 73:7 Shaffer 120:20 122:5,7 154:10,17 155:4 157:8, 20,21,23,24 158:4,6,7, 8,12,13,19 Shaffer's 158:8 shaming 79:11 shape 62:11 share 150:18 sharing 102:19 shenanigans 137:4 shifted 140:22 shoes 74:8 short 5:25 98:21 115:13 shorten 115:18 shot 7:4 66:4 184:3 shots 136:7 show 21:17 22:2 28:20 29:1 51:19 60:23 66:25 70:4 79:9 81:10 85:12 86:21 98:3 121:10 128:24 141:11 155:11 158:8 165:1 169:14,19 175:3 showed 60:1 119:18 showing 43:20 44:25 76:24 77:2 125:18 shown 9:5 12:16 shows 69:11 105:5 145:2 shut 76:13 shutting 40:19 side 15:25 35:17 50:16 55:20 57:2,6,11 58:11, 18 59:7,16 69:23 70:9, 11 73:18 75:12 85:15 86:2 104:2 149:15 165:11 175:2,3 176:11 179:12 180:9 181:10 186:9	sidebar 25:4 35:16,17, 19,21,22,24 36:2 54:14, 15,16,21 55:3,21 64:16, 19,24 65:19,22 73:8 86:7 101:2,6 103:8 104:12,13,25 105:2,24 106:3,4,13 133:3 134:7 175:3,6,16,19 176:4 178:9 179:15 186:8 187:1 sidebars 24:2 68:15 86:11 175:21,25 176:1 sideline 121:4,8,11 sidelined 128:22 sides 30:21 83:6 96:11 114:20 118:1,5,8 sign 11:12 15:3 19:21, 23 21:4 signal 66:2 significant 143:2 164:16 Silver 65:20 similar 45:21 58:24 130:24 131:24 182:15 similarly 45:18,20 similarly-situated 45:16 simple 142:14 143:13, 16 180:24 simpler 178:23 simply 28:24 Sims 112:20 113:4 122:15,17 123:21,25 124:18 125:3 Sims' 116:21 125:12 single 77:14 sit 8:6 66:4,9 68:7 114:17 118:8 120:25 121:25 132:20 152:8 155:6 156:1,17 157:24 158:4,22 162:6 163:16, 22 164:20 167:15 169:22 170:15,22 178:24 185:16 sits 125:3	sitting 23:24 52:5 58:14 64:17 73:1 114:24 118:18,21 148:18 situation 9:2 19:11,18 34:9 35:16 42:1 43:5 48:3 86:3,10 115:17 126:23 151:15 152:4,6 170:10 situations 35:22 45:20 46:13 66:23 six-hour 115:18 sketch 51:22 93:17,19 97:14 skin 79:15 skipped 64:3 slick 63:20 slide 8:11 slight 124:4 slightly 81:14 133:24 slow 69:23 slower 66:15 smallest 50:14 smart 133:9 snippet 106:24 social 51:11 94:15 164:6,10 solve 73:21 someone's 92:1 179:16,19 Sonia 160:11 sooner 149:1 sort 10:11 31:10 41:16 61:14 86:3 93:16 108:16 109:3 126:22 130:24 137:1 145:17 164:14 183:24 sought 117:7 sound 81:4 97:20 sounds 82:11 109:15 132:12 151:8 158:6 source 71:15,18
--	---	--	--

sources 37:1 39:15	specifically 16:7 32:23 43:14 114:12 123:22 139:25 164:6	started 42:20	stopping 100:17
Southwest 5:5,12,15 15:13 17:1 26:23 27:1, 16 28:5,11,15 29:15 31:5 32:17 33:13,23 34:11,21 35:9 36:19 37:2,5 38:11,12,15 39:4,19 40:20,22 42:8, 9,11 43:2,7,13,14 44:7 45:4,12 46:10,19,20,21 47:11,25 48:2 49:8 58:23 66:13 74:3 83:9 88:16 90:15 94:2,25 95:7 98:16,19 102:21 108:14,21,25 111:22 112:5,13,16,24 113:5, 13 116:5 118:2 119:12, 20 120:10 122:8 124:1, 8,25 125:16,22 126:10, 23 127:1,15 130:3,5 131:8 132:7 138:7 140:5,11,16 142:9 143:4,10,16 144:4,10, 18,22 145:5,8,23 146:9, 11 147:7 149:23 150:10,17,22 154:2,12 155:3,15,17,18 157:13 158:25 159:7,10 160:6 161:15 182:12	specificity 129:11 160:22	starts 6:22 10:11 86:5 120:14,17	story 21:9 30:8,14 125:22 126:9
	specifics 146:1	state 52:20 85:1,5 169:1	strange 150:12
	speech 33:2,3 98:18 99:4,7,17	stated 134:15 163:25	straying 34:15
	speed 111:5 176:20	statement 26:21 31:1 34:14,23 36:17 174:14	streamline 9:3 35:23 36:3 111:3
	spelled 123:1	statements 34:18 44:2	streamlining 35:18 106:18
	spelling 11:9	states 82:1,3 161:17	stretches 142:19
	spend 105:1 125:25	static 176:13,14	strike 57:23 60:12,16 87:5
	Spill 109:23	status 103:3 104:3,10, 17,19 105:10 106:21,24 107:5 111:14 120:5 152:16 153:5,8 158:9 168:1 169:6,11 170:4 171:14	strikes 50:17 57:1 58:11 60:10
	spirit 113:2	stay 8:10 22:20 46:21 82:12 104:21	striking 84:3 86:18
	split 57:13,25 59:11 186:5	staying 23:18	strip 10:17
	spoken 42:3 110:25 111:2	stays 122:25	strong 60:6 61:23 92:21 175:18
	spot 184:13	steamroll 107:22	strongly 75:23 77:13 82:7
	spouse's 56:7	steer 18:22	struck 60:8
	stab 98:2	step 27:4 92:5 100:20 122:19 123:5 124:20,22 158:3	structured 41:2
	stack 110:15	stick 51:17 125:20 182:4	stuff 73:3
	staff 67:4	stipulate 35:8	stymied 123:17
	stage 19:19	stipulated 21:7,8,10, 13,17,21	subject 134:11 136:9 171:6
	stand 19:6 52:11 53:15 65:16 70:2 86:4,15 100:12 110:19 121:18 134:10 166:9 181:5	stipulation 27:9	submission 13:16
	standard 53:1 56:5 82:1 85:18 121:7 181:1	stipulations 27:10 93:20	submitted 54:11
	standing 8:3	Stone 26:23 27:20,25 29:14 30:15,17,18 31:8 32:3 43:21,25 44:6,15 95:17 141:13 149:13,14 164:5	subpoena 139:19 141:20,24 142:2 144:5, 6,8 145:3,8,20,21,25 146:5,19 147:2 148:12 149:20 150:16 151:1 155:9 158:6,12 159:11, 19 171:12,22,23
	standpoint 20:22 29:13 37:24 59:1 82:19	Stone's 44:12 164:1,9	subpoena's 155:10
	stands 43:6 121:24	stop 65:22,24 75:2 84:11 93:22 179:16,18 180:5	subpoenaed 146:12 150:20 151:5
	star 67:13 109:25		subpoenaing 171:10
	Starr 11:6 85:20 86:22		subpoenas 119:19,21, 23 120:1,7 137:19 138:3,6,8 140:20 141:19 142:4 145:22
	start 11:18,23,24 21:11 22:10 53:14 60:22 62:12 66:2 68:6 80:5 86:5 108:6 129:22 135:2 148:11 156:18 176:21		
Southwest's 28:16 38:17 44:9 46:8 47:19 89:5 90:18 93:4,7 112:4 114:12,14 120:19,21 157:25 164:12			
sovereign 24:17			
space 11:14,15 49:3 51:10 90:1			
spaced 52:7			
Spain 142:18			
spam 11:13			
speak 28:13 104:12,13 105:25 129:10 174:8,19 175:9 176:5			
speaker 33:18			
speaking 175:2			
special 6:17 12:6,16,21			
specific 31:2,15 34:13, 18 68:25 69:1 97:5 102:17,25 126:19 169:8			

146:25 167:21		Tammy 154:10	thick 26:7
subset 110:21 156:14 157:7	T	tangential 160:8	thing 14:19 21:24 38:23 49:19 61:10 63:11,13 67:6 72:22 79:4 80:9,14 89:18 93:13,15 109:9 110:11 124:3 131:16 135:14 141:13 148:9 150:9 174:5
substantive 20:24	table 18:23 47:21 52:6 53:7,10 185:25 186:3,5	target 43:12	
substantively 63:5	tables 52:1	task 164:12	
sued 98:16	tactic 165:21	teachings 94:23	
sufficiently 46:13 78:4	tag 36:6	team 13:24 84:7 98:6 162:11 164:12,13 171:3	things 6:12,14 9:3 10:14 13:21 17:13 28:6 34:25 39:11 56:7,11 65:14 66:18 73:4 87:24 89:2 101:8,13,24 111:4, 5 123:12 134:2 150:23 153:11,14,18 169:3 174:22 179:12 180:7 181:11
suggest 17:22 48:23 144:5	tagged 35:21 106:4	tease 56:8	
suggested 151:5	tailspin 57:9	tee 48:21	
suggesting 82:24	takes 136:7 165:20 176:1	telephone 152:13	
suggestion 143:21 163:7	taking 40:12 44:6 46:19 67:11 69:15 73:14 94:22 171:7 174:16	telling 6:20 20:4 30:7, 14 69:22,25 91:19 121:1 146:9 156:8	
suggestions 97:15 143:20	Talbert 43:23,25	tells 69:9 142:24	thinking 17:21 50:4 57:20 71:6 73:2 90:3 97:9,10 185:1
summit 162:1	Talburt 138:17 139:7,8, 13 151:12,16,18,20,24	temporally 95:20	thinks 87:15
super 128:7		tenet 91:8	thought 17:17 20:8,13 40:16,24 58:25 65:4 68:21 71:24 114:9 129:12 156:9 169:19
supervisor 137:23	talk 6:15 7:9 9:17 14:24 21:25 22:22,25 23:8 25:2 30:20 34:20 35:19 36:10,11,23 47:16 48:24 54:8 55:4 56:17 59:21 60:4 63:5 79:4 80:12 81:19 86:17 87:12 89:8,17 90:20 101:2 102:15 104:11,14 111:11,15,17,20 114:23 120:6,15 122:12 126:14 130:18 132:5 134:9 137:11 138:9 139:15 143:12 146:2 149:9 152:15,18 158:11,14 159:3,8,24 176:5,15 177:5 180:7,21 181:6, 14 183:22 185:3 186:10	tense 175:13	thoughts 25:25 43:5 57:10 58:21 88:25 89:3 96:16 182:11
support 31:2 75:24		terminated 124:19	threat 96:5,9
supporters 42:19 43:12,18 44:18		termination 33:24 37:3 125:17 160:15,17	threatened 44:1
supporting 181:4		terms 27:14 119:11,13, 16 132:12	threatening 48:1
supports 14:5		terrible 79:4	threats 95:16
suppose 141:7		territory 34:15	three- 32:3
supposed 174:8		test 13:7 33:11 186:8	three-week 12:19
Supreme 81:23,25 82:5,8 91:13 92:20		testifying 126:4 184:13	thrilled 132:23 133:9
surprise 177:14		testimony 26:21 31:1 37:25 42:9 114:25 122:23 123:21 125:12 135:18 136:3 151:23 152:17 153:19 165:14 166:10 179:9 183:25 185:5	throw 10:23 68:6 86:20
surprised 147:17		Texas 127:7	thumb 10:23,24
suspect 9:25 38:20 159:21	talked 61:22 86:14 87:13 99:24 115:16 149:9 154:2 158:16 171:9 185:12	text 19:13,14,15	thumbing 93:5
sustained 166:1,13,19	talking 6:20 11:18 26:14 31:15 38:14,18 39:9 49:1 52:14 64:14 68:14 70:23 80:5,7 96:12 116:9,10 124:13 135:2 153:9 159:20 175:10 181:15	thankful 70:20,21	thumbnail 93:17,19 97:14
swap 102:25	tall 5:24	Thankfully 63:12	Thursday 115:14
swear 64:1		theoretical 37:24 80:13	tie 181:8
sweet 73:2		theory 14:6 101:21	tied 61:19
swimming 63:10		thereof 68:22	tilt 6:5
sworn 21:11			
system 6:2 66:12 69:20,21 70:21,24 71:6 73:16			

tilted 6:3	tonight 108:7	22:8,15 23:1 24:13 26:7	turns 44:20 80:11
time 7:2,9,12 10:14	top 139:10	32:13,21,23 34:25	two-hour 115:20
11:13,23 18:16 19:4,13	topic 7:15,17,19 8:19	35:13,18 50:1,9,12	two-minute 66:5
22:22 24:1,22 25:1,4,6,	50:2 81:12 95:5 97:3	63:12,16 65:2 67:13	163:20
10,12,18 32:4 35:21,24	topics 7:20 22:12 32:7	69:4 70:25 74:14,15	two-sided 46:5,6
36:4,7 38:10 43:16	46:17 72:6	87:15 100:6 102:3	txnd.uscourts.gov.
44:20 52:17,21 53:5,23	total 27:7 57:17,18 61:1	105:23 107:20 110:23,	11:11
55:11 59:9 61:1 62:12,	totally 62:20	25 114:5,18,22 115:1,7,	tying 13:18
24 63:16,17,25 64:7,11,	totals 59:10	13,15 116:2,15 118:7,	type 38:23 162:1,3
13 65:1,4,5,6,9,12,16	touch 52:21 59:16 61:6	20 119:3,11,16,23,25	typically 182:24
66:6,9,11,23,25 67:1,2	141:4	120:7,14,16 122:1	
68:2,14,16,19,23 69:5,	touches 50:19	127:3 128:10 129:4,9	<hr/>
11,15,17,22 70:9,10,11,	touchiest 83:3	134:10,11 136:9 139:19	U
16,22 71:7,25 72:4,12,	touching 145:1	140:20 141:22 142:10	
18 73:1,6,9,10,14,18,	touchy 83:2	143:6 145:2,7,25	U.S. 128:9
20,22 74:4,13,24 75:1,	toughest 151:9	146:12,19 147:10	ultimate 47:18 98:3
3,4,8,16 81:25 83:3	town 135:6 171:1	148:11 150:16,20	125:17
89:23 93:5 99:24,25	track 65:4,6,15,18 67:3	152:9,13 155:10 156:18	ultimately 29:24
101:6,7,18,23,24 102:3,	93:19	157:1,22 158:6,11	un-winning 66:23
9,12,14,21 103:8	tracks 45:18	159:12 160:23 162:8,	unanimously 17:14
104:24 105:1 106:4,9,	traditional 38:21	21,25 163:19 164:21,24	unavailable 7:16
12 117:20 119:14	transcribe 176:7,22	165:5,7,9 167:21 168:3,	111:18
121:16,21,23 123:16	transcribing 177:8	4,10 169:20,23 170:22	underlying 34:6
125:25 127:21 128:23	transcript 84:4 163:20	172:12,13,18 173:6	understand 20:3 29:4
130:15 132:13 136:2	164:25 165:1,9,11,18	174:6,22 177:6,15	37:8,15 114:2 119:4
140:1 149:5 151:3	166:17,24 167:7 172:10	183:15 184:8 185:1,18,	130:6 137:17 147:4
152:24 163:15 164:3	176:23 177:9	24	148:15 150:8 153:7
169:8,14 170:1 173:19	transcripts 177:4	trials 24:14 105:20,21	157:19 159:16
175:20 176:20 182:5	transparent 18:21	tribute 186:22	Understandably
185:3,5	Transport 5:6	triers 174:11,17	82:15
timely 168:4	Transportation 94:4	triggering 153:7	understanding 138:19
times 33:19 64:24	travel 118:11 135:1	156:22	171:18
72:22 73:4 100:13,15	137:12 161:11 162:17	triggers 80:16	understood 16:19
118:18 133:19 165:14	travels 161:8	triple 176:24	18:8 30:4 38:8 46:2
175:8	treat 158:19	true 24:2 91:11 108:24	48:12 96:20 98:11
timing 23:11 96:21	treated 40:22	110:9	112:15 124:6 125:19
116:8 162:22,23	treating 44:17	Trump 31:3 32:5,25	126:3 140:7 141:8
tiny 23:17	treatment 42:10,13	34:12 87:17	144:15 147:20 148:1,12
Title 13:5,7 16:7 18:2,	trial 6:4,9,22 7:13,18	trust 84:6 107:9,10	162:10 164:18 182:10
25 19:2,5,14 20:14,23,	10:11,17 12:1 15:22	179:16	undo 30:18
25 27:22 98:22		Tuesday 53:19 102:6,	undue 34:1,16 46:14
today 6:7 7:7 14:20		8,13 107:15,25 130:14	59:22
15:2 17:4 21:3 22:2		turn 16:16 29:22 47:3	unemployment 39:18
26:3,15 51:18,20,24		52:4 66:21 107:14	unhappy 23:17
98:4 114:17 163:8		128:12 129:6 135:3	
167:16 174:4 185:12		171:5 176:14	
told 22:1 34:14 50:24		turned 30:15,17,18	
89:19 126:9		45:12,21 46:6	
tomorrow 60:21		turning 28:1 166:20	
103:15,16 104:7 108:8			
149:7			

union 16:15 17:11,13
26:25 27:11,23 28:2,5,
7,12,14,19,25 29:6,18,
20,23 31:14 33:2 38:16
42:17 43:1,6,11,15,24
44:14,17,20,25 45:3,22,
23 46:12,24 47:12,23
49:7 58:23 74:24 83:9
94:4,10,11,13,16 95:1,
3,6 96:1,25 97:23,24
98:16,19 99:5,9 108:17
109:1 111:23 112:12,17
124:17 125:16,22
126:10 130:22 131:8
139:21,24 140:10
142:13,22 143:1,5,7,12,
14,22,25 145:5 146:8,
11 147:6 148:3 150:10,
18 171:15 179:6

Union's 29:8 95:4 97:2
112:25 113:10 123:25
125:13 126:4 127:10
140:1 141:17 149:21
150:5

unique 40:17

universe 31:19

unlike 40:18

unlimited 50:17

unmute 105:17

unopposed 35:10
36:19 37:5

unprofessional
105:22 106:6

unredacted 33:4

unspoken 134:15

unusual 143:3

unwillingness 141:15

unwise 125:25

update 153:4

updated 47:10 65:15

upper 44:9

upstate 139:3

usage 65:17

utilizing 106:21

V

vacation 161:16 162:4

validity 141:19

validly 146:20 150:16,
20

validly-served 151:1

vehemently 109:14

verbal 61:12

verbally 34:19

verdict 23:7 41:14,20
88:7 102:10 128:17
133:22 134:2 182:5,6

versa 74:24

version 10:8,9,12,15,
21 97:13 102:19

versions 22:4

versus 5:5 91:6,16
98:22

viable 89:25 90:7

vibe 66:18

vice 44:9 74:24 164:7

video 48:1 165:21,23
166:17,23 172:9,10
173:1,10,12

view 15:20 23:25 33:23
36:9 41:11 42:5 59:7
75:6 76:1 85:11 88:5,6
128:10,20 140:23
163:24

viewing 33:23

views 82:9 83:15 114:9

VII 13:5,7 16:8 18:2,25
19:2,5,14 20:14,23 21:1
27:22 98:22

violated 44:25 82:4

violates 44:22

violation 27:11 28:2
30:12

violations 28:7 98:17

violence 95:16

visit 59:20

voices 173:11

voir 7:1 31:16,17 50:2,5
52:19 53:14 54:6 55:19
59:16 60:23 61:2,6
63:7,13,21 64:3 75:18,
20 83:20,24 85:5 89:3,
18 90:10 91:23 92:3
93:8,11,12,13

voluminous 32:2

vote 75:25 76:10,13
77:15,20 78:11 88:5

voting 76:21,23 91:4

VP 123:25

W

wait 23:12 84:11 90:1
132:20

waiting 24:25 128:23

walk 7:3 52:14 110:1
176:2

walking 106:13 180:4

walks 178:8

wanted 25:25 67:19
74:18 84:23 87:11
88:14 89:18 90:19
112:21 128:21 133:6
134:14 148:13

wanting 113:25 114:20
177:11

warrant 153:7

warranted 16:10

warrants 17:18

Washington 95:2
97:22

waste 7:12 71:25

wastes 106:9

wasting 25:6 72:12

watch 65:23,24 178:24,
25

Water 109:24

ways 67:4 77:21 79:15
83:7 94:14 172:14

Wednesday 47:7
107:17,25 108:1 129:24

week 49:25 102:8
115:12 130:15 148:24
152:11 162:2,3

weight 167:3 172:22
184:15

weird 11:22 66:18

west 80:10,17 139:5

western 40:1 83:3

Westlaw 109:25

Westmoore 39:24,25

wheels 170:6 174:3

whisper 176:15

who-do-you-know
53:20

wholly 149:10

wide 133:15 134:6
136:1

wide-open 133:21
136:7

wildly 173:16

willingness 129:9
130:24 131:25 141:10
149:14 151:10,25 154:3

windfall 39:19 41:3,10,
25 42:2

window 145:10

wisely 185:4

withheld 26:16

witness' 179:8

witness- 108:9

witnesses 7:17 34:5
48:20 55:10,12,13
69:20,21 70:15 74:3,19
101:23 103:14,18,20,21
107:16 108:17,25 109:8
111:11,18,23 112:17,
22,25 113:4,8,16
114:18 116:12 118:13
119:4 120:4,7,19,25
121:4,11 122:15
126:12,13,14,20 127:7,
9,10 128:14 130:1,4,19,

23:25 131:12,13 133:13
134:5,17 135:1,5 136:1,
20,22,25 138:2,11
139:24 143:18 144:13,
17 149:8 159:23 163:9
169:3 171:5 172:6
173:19,25 178:6 179:8

Women's 95:1,4 97:3,
22,23 98:7

wondering 25:5 50:6
65:24 101:1

word 10:8,9,12,15,25
11:3 110:25 111:2
113:11 166:4 174:24
175:6 176:24

worded 170:20

wording 168:7

words 24:10 34:20
175:1 176:21

work 9:1 22:7 38:3,4,6
39:10 49:24 55:8 56:17,
19 57:11,13 103:7
107:23 119:13 130:12,
16,18 145:5,12,19,20
149:15 150:2 151:3
161:25 171:20 185:13,
20

worked 21:14 102:21

Workers 5:6 94:4

working 8:24 9:19
65:21 103:9 126:22
148:4 153:10

workplace 29:17

works 7:4

worry 36:4

worst 9:22 151:22
169:21

worth 99:15

wraps 93:11

write 179:13

writing 26:4 30:6 35:3
42:7 54:10 92:6 105:11

written 47:4 49:18
61:18 122:22 123:1
167:12 173:20

wrong 63:4 81:21
86:14 90:23 117:10
146:14,15

wrongdoing 98:20

Y

y'all 6:8,11,17,21 7:3,5,
21 8:6,10,24 9:2,10
10:8 11:5,6 13:20 18:21
20:3 21:8,12,18 22:1,2,
3,6,10,24 25:19,20
26:19 30:19 42:7 49:3,
19,24 52:21,22 53:18
54:5 55:9 57:10,25 58:2
60:9,11,16 61:3,13,21
62:11,14 68:14 70:6
72:25 75:1,5 81:19,20
83:10 84:3,4 85:17,18
89:12 92:25 97:9,13
98:3 102:18 104:17,24
105:9,10,12 106:10,11,
12,23 107:8,10,21
108:7,15,16,21 109:1,
11,15 110:4,11,14
118:4 126:16 127:6
129:3 130:2 132:24
137:3 147:10,12,13
148:4 152:23 153:4,6,8
159:2 164:22 165:6
166:8,20,22 167:25
170:1,4 173:3,4 174:1
176:9,14 178:11,22
179:17 185:13,18
186:2,17,20,22

y'all's 7:12 25:25 26:12
31:19 43:5 70:15 93:20
107:18 110:7

years 67:21 94:10
183:12

yes/nos 61:14

yesterday 25:24 27:19
119:17 123:2

York 14:7

Z

zealously 24:1 186:21

Zoom 115:14,25 118:9
120:13 152:17 154:22
156:1,17 170:16